

**SENATE APPROPRIATIONS COMMITTEE  
FISCAL NOTE**

**BILL NO.** Senate Bill 93

**PRINTER NO.** 882

**AMOUNT**

See Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

January 23, 2019

**PRIME SPONSOR**

Senator Bartolotta

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 93 amends Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes to create the criminal offense of “drug delivery resulting in serious bodily injury.”

This legislation amends Chapter 27 (Assault) by creating a new section, §2719: Drug delivery resulting in serious bodily injury. The statute defines the offense as intentionally administering, dispensing, delivering, giving, prescribing, selling or distributing any controlled substance or counterfeit controlled substance in violation of The Controlled Substance, Drug, Device and Cosmetic Act, and another person suffers serious bodily injury, as defined in §2301 (relating to definitions) of Title 18, as a result of using the substance. The offense of drug delivery resulting in serious bodily injury is graded as a misdemeanor of the second degree, which carries a penalty of up to two (2) years imprisonment and a maximum of up to \$5,000 in fines.

Title 18 defines serious bodily injury as “bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.”

Additionally, the legislation requires the Pennsylvania Commission on Sentencing (commission) to provide for a sentencing enhancement within its guidelines for the offense. When determining the gravity of the offense, the commission shall consider whether the controlled substance or counterfeit controlled substance was administered, dispensed, delivered, given, prescribed, sold or distributed in exchange for any direct or indirect remuneration or consideration.

This act shall take effect in 60 days.

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**FISCAL IMPACT:**

According to the Pennsylvania Commission on Sentencing, currently there is no data available to determine the number of convictions that may result under this new offense. Comparisons of the number of successful drug overdose reversals by the use of Narcan and the number of drug overdoses that resulted in death have varied widely and do not appear to provide a consistent pattern to determine the number of cases in which “serious bodily injury” could be an element. In order for District Attorneys to successfully prosecute and obtain a conviction under this offense, they would need to be able to trace the reversed overdose back to a dealer and then be able to prove the nexus with the drugs sold. This may minimize the actual number of convictions that may be realized.

According to 2015 sentencing data, there were 8,643 drug felony cases reported in Pennsylvania, of which 2,364 received a state prison sentence. The average minimum sentence was 21.8 months. Assuming this new offense is the equivalent to other sentences imposed for causing serious bodily injury (e.g., aggravated assault) and somewhat less serious than sentences imposed for drug delivery resulting in death, an average minimum sentence of 6 years (72 months) would be expected. Assuming the conviction for drug delivery resulting in serious bodily injury is an additional count for an individual already being convicted of drug trafficking, it is estimated that the average minimum sentence would be an additional 4 years, since the average sentence already imposed on these convictions is 21.8 months.

Following are the estimated costs to the Commonwealth that may be incurred for imprisoning an inmate in a State Correctional Institution for an average of four (4) years, due to the enactment of this legislation:

Number of Convictions:	Cost per inmate/per day:	Estimated Annual Costs:	Estimated Cost for 4 Year Sentences:
10	\$16.58	\$60,517	\$242,068
50	\$16.58	\$302,585	\$1,210,340
100	\$16.58	\$605,170	\$2,420,680
500	\$40.57	\$7,404,025	\$29,616,100