

SF1462 - 1UE - Criminal Acts Against Protected Persons

Chief Author: **Torrey Westrom**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **3/24/2022 4:06:17 PM**
 Lead Agency: **Corrections Dept**
 Other Agencies:
 Public Defense Board Sentencing Guidelines Comm
 Supreme Court

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
State Total						
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/24/2022 4:06:17 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

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Chief Author: **Torrey Westrom**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **3/24/2022 4:06:17 PM**
 Agency: **Corrections Dept**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/24/2022 4:05:04 PM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The proposed legislation would create a gross misdemeanor crime for violating the bill of rights for protected persons. It would also expand the elements of criminal abuse of a vulnerable adult to include the intentional administration of a controlled substance without a valid prescription or in a manner inconsistent with a valid prescription. The offense is a gross misdemeanor unless substantial bodily harm, great bodily harm, or death results, in which case the new offense would be a felony.

Assumptions

The Minnesota Sentencing Guidelines Commission (MSGC) assumes the inclusion of administration of a controlled substance as an offense element could result in an increase in the number of criminal abuse of vulnerable adult offenses sentenced.

The MSGC assumes the behavior proscribed by the bill's felony provisions is generally likely to be currently prosecutable under one of three comparison offenses that result in substantial bodily harm, great bodily harm, or death. The three comparison offenses are ranked at equal severity to the criminal abuse offenses in this bill.

There would be no impact to state prison beds or supervision caseloads statewide as a result of this bill.

The felony provisions of this bill would be effective August 1, 2022 and would apply to crimes committed on or after that date.

Expenditure and/or Revenue Formula

N/A

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

The impact on local correctional resources as a result of this bill would be minimal.

References/Sources

Minnesota Sentencing Guidelines Commission

Department of Corrections staff

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Agency Fiscal Note Coordinator Signature: Chris Dodge

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Chief Author: **Torrey Westrom**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **3/24/2022 4:06:17 PM**
 Agency: **Public Defense Board**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 3/18/2022 9:38:08 PM
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State Cost (Savings) Calculation Details

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The bill would provide for a penalty to a guardian who administers a controlled substance to a vulnerable adult without a prescription or administered inconsistent with the prescription.

Assumptions

We do not foresee a significant number of cases arising from this bill.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

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SF1462 - 1UE - Criminal Acts Against Protected Persons

Chief Author: **Torrey Westrom**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **3/24/2022 4:06:17 PM**
 Agency: **Sentencing Guidelines Comm**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Jim Carlson **Date:** 3/23/2022 7:53:43 AM
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State Cost (Savings) Calculation Details

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Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

Section 1 creates a gross misdemeanor crime for violating the bill of rights for protected persons.

Section 2 amends Minn. Stat. § 609.2325-Criminal Abuse of a Vulnerable Adult. It expands the elements of the offense to include the intentional administration of a controlled substance without a valid prescription or in a manner inconsistent with a valid prescription. The statutory maximum penalties vary by the level of harm caused by the abuse. The offense is a gross misdemeanor unless substantial bodily harm, great bodily harm, or death results, in which case the new offense is a felony. Section 2 is effective August 1, 2022, and applies to crimes committed on or after that date.

Assumptions

It is assumed that due to the COVID-19 health pandemic, the cases sentenced in 2020 will not be a fair approximation of cases sentenced in the future; therefore, cases sentenced before 2020 are used to estimate the impact of this bill.

With respect to section 1: MSGC has no data to suggest how commonly the new gross misdemeanor offense will be committed.

With respect to section 2: One of the responsibilities of the Commission is to assign severity-level (SL) rankings to new felony offenses passed by the Legislature. The Commission bases its decisions, in part, on the level of harm caused and the culpability of the person. The statutory maximum is also considered. The statutory maximums for violations of section 609.2325 are based on the level of harm imposed. The level of harm, statutory maximum, and SL rankings for the existing crime are displayed in Table 1. Since no changes are being proposed to the penalty provisions in this statute, it is assumed that the Commission will maintain the existing SL rankings, which are graduated according to the level of harm.

Table 1.

Level of Harm	Statutory Maximum	SL Ranking	Comparison Offense	Comparison SL Ranking
Death	15 Years	9	Murder 3rd Degree (Drugs) 609.195(b)	9
Great Bodily Harm	10 Years	8	Great Bodily Harm Caused by Distribution of Drugs (609.228)	8
Substantial Bodily Harm	5 Years	4	Use of Drugs to Injure or Facilitate Crime (609.235)	4

According to MSGC monitoring data, since 2001, there has only been one case sentenced for criminal abuse. That case was sentenced for the SL 4 offense involving substantial bodily harm and received a stay of imposition.

The inclusion of administration of a controlled substance as an offense element may result in an increase in the number of Criminal Abuse of Vulnerable Adult offenses sentenced. Like the three felony offenses created by the bill, there are three existing crimes that establish felony penalties for causing harm by the administration of drugs, displayed in Table 1 as "Comparison Offenses": Murder 3rd Degree (Drugs) (Minn. Stat. § 609.195(b); 50 cases 2015-2019), Great Bodily Harm Caused by Distribution of Drugs (Minn. Stat. § 609.228; 6 cases 2015-2019), and Use of Drugs to Injure or Facilitate Crime (609.235; no cases 2015-2019). Based on the similarity of elements, it is assumed that behavior proscribed by one of the bill's felony provisions is generally likely to be currently prosecutable under one of these three comparison offenses. In addition, the comparison offenses are ranked at equal severity to the criminal abuse offenses with the corresponding level of harm. For these reasons, no correctional impact from the bill's felony provisions is assumed.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Based on the above assumptions, MSGC assumes no correctional impact.

Local Fiscal Impact

Based on the above assumptions, MSGC assumes no correctional impact.

References/Sources

MSGC 2015-2019 Monitoring Data

Agency Contact:

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Chief Author: **Torrey Westrom**
 Committee: **Judiciary And Public Safety Finance And Policy**
 Date Completed: **3/24/2022 4:06:17 PM**
 Agency: **Supreme Court**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
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Total	-	-	-	-	-

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Alyssa Holterman Rosas **Date:** 3/23/2022 9:13:41 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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State Cost (Savings) = 1-2 Dollars in Thousands	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-
Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*					
Total	-	-	-	-	-
Biennial Total			-		-
2 - Revenues, Transfers In*					
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

SF1462-1UE amends section 524.5-120, the Bill of Rights for Persons Subject to Guardianship or Conservatorship to add a new paragraph (b) making it a gross misdemeanor for a legal guardian to prevent the protected person from exercising the rights enumerated in the statute; and amends section 609.2325, subdivision 1 (Criminal Abuse) making it a gross misdemeanor or felony to intentionally administer a controlled substance to a vulnerable adult without a valid prescription or in a manner inconsistent with the terms of the prescription.

Assumptions

According to the Minnesota Sentencing Guidelines Commission, since 2001 there has been only one criminal abuse case sentenced, and the conduct prohibited by one of the bill's felony provisions is likely to already be chargeable under existing criminal offenses. Thus it is assumed that the provisions of this bill will not significantly impact case filings or require any additional judicial branch resources.

Expenditure and/or Revenue Formula

This bill is not anticipated to have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

References/Sources

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