

SF456 - 0 - Fentanyl Exposure Criminal Penalties Establish

Chief Author: **Paul Utker**
 Committee: **Judiciary And Public Safety**
 Date Completed: **2/7/2025 11:21:39 AM**
 Lead Agency: **Health Dept**
 Other Agencies:
 Corrections Dept Public Defense Board
 Sentencing Guidelines Supreme Court
 Comm

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	FY2025	FY2026	FY2027	FY2028	FY2029
Corrections Dept						
General Fund	-	-	5	12	21	
State Total						
General Fund	-	-	5	12	21	
	Total	-	-	5	12	21
	Biennial Total			5		33

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2025	FY2026	FY2027	FY2028	FY2029
Corrections Dept					
General Fund	-	-	-	.1	.1
	Total	-	-	.1	.1

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: Shannon Zila **Date:** 2/7/2025 11:21:39 AM
Phone: 651-296-6053 **Email:** shannon.zila@lbo.mn.gov

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		FY2025	FY2026	FY2027	FY2028	FY2029
Corrections Dept						
General Fund		-	-	5	12	21
Total		-	-	5	12	21
Biennial Total				5		33
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Corrections Dept						
General Fund		-	-	5	12	21
Total		-	-	5	12	21
Biennial Total				5		33
2 - Revenues, Transfers In*						
Corrections Dept						
General Fund		-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

SF456 - 0 - Fentanyl Exposure Criminal Penalties Establish

Chief Author: **Paul Utke**
 Committee: **Judiciary And Public Safety**
 Date Completed: **2/7/2025 11:21:39 AM**
 Agency: **Health 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	FY2025	FY2026	FY2027	FY2028	FY2029
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029
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: Shannon Zila **Date:** 2/4/2025 8:44:28 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.

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

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2025	FY2026	FY2027	FY2028	FY2029
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

This is a bill to expand the definition of prohibited behavior to include knowingly causing or permitting a child or vulnerable adult to inhale, be expose to, have contact with, or ingest fentanyl.

Assumptions

This bill does not include a creation nor an implementation of prevention activities, communication initiatives, or data collection and analysis around this change in what is classified as prohibited behavior as it pertains to fentanyl. There are no actions, as described in this bill, that would impart a material cost onto the department.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Brendan Wright

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SF456 - 0 - Fentanyl Exposure Criminal Penalties Establish

Chief Author: **Paul Utke**
 Committee: **Judiciary And Public Safety**
 Date Completed: **2/7/2025 11:21:39 AM**
 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	FY2025	FY2026	FY2027	FY2028	FY2029
General Fund	-	-	5	12	21	
Total	-	-	5	12	21	
Biennial Total			5		33	

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2025	FY2026	FY2027	FY2028	FY2029
General Fund	-	-	-	.1	.1
Total	-	-	-	.1	.1

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: Susan Nelson **Date:** 2/7/2025 11:03:11 AM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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 Dollars in Thousands	Biennium			Biennium	
	FY2025	FY2026	FY2027	FY2028	FY2029
General Fund	-	-	5	12	21
Total	-	-	5	12	21
Biennial Total			5		33
1 - Expenditures, Absorbed Costs*, Transfers Out*					
General Fund	-	-	5	12	21
Total	-	-	5	12	21
Biennial Total			5		33
2 - Revenues, Transfers In*					
General Fund	-	-	-	-	-
Total	-	-	-	-	-
Biennial Total			-		-

Bill Description

SF456 makes modifications to Minnesota Statute 152.137 by adding a new section, Subdivision 2(c), which prohibits a person from knowingly causing or permitting a child or vulnerable adult to be exposed to, have contact with, or ingest fentanyl. A violation of this statute is a felony penalty (maximum five years imprisonment and/or \$10,000 fine). No effective date is specified.

Assumptions

Prison bed costs are based on a marginal cost per diem of \$52.61 for FY 2026, \$53.79 for FY 2027, \$55.29 for FY2028, and \$56.89 for FY 2029 and each subsequent year. This includes marginal costs for all facility, private and public bed rental, health care, and support costs.

The annual cost is estimated by multiplying the number of prison beds needed by the subsequent annual per diem. Unless otherwise noted, prison beds are phased in on a quarterly basis.

Prison bed impact for the increase in the offender population assumes 80 percent of the ongoing bed impact is personnel-related and the average salary per FTE is \$126,000 per year, including benefits.

Expenditure and/or Revenue Formula

Minnesota Sentencing Guidelines Commission (MSGC) projects that a small bed impact would likely begin starting in fiscal year 2027, given implementation delays.

Cost of Prison Beds

Fiscal year	2026	2027	2028	2029
Number of Prison Beds	0	0.38	0.38	0.38
Cost of Prison Beds (in 000s)	\$0	\$5	\$12	\$21
FTE	0	0	0.1	0.1

Long-Term Fiscal Considerations

MSGC does not project a significant long-term impact.

Local Fiscal Impact

MSGC estimates that there would be a minimal impact to local government.

References/Sources

Department of Corrections staff

MSGC

Agency Contact: Mark Besonen

Agency Fiscal Note Coordinator Signature: Mark Besonen

Phone: 651-361-7200

Date: 2/7/2025 10:55:07 AM

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SF456 - 0 - Fentanyl Exposure Criminal Penalties Establish

Chief Author: **Paul Utke**
 Committee: **Judiciary And Public Safety**
 Date Completed: **2/7/2025 11:21:39 AM**
 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	FY2025	FY2026	FY2027	FY2028	FY2029
Total	-	-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2025	FY2026	FY2027	FY2028	FY2029
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: Susan Nelson **Date:** 2/6/2025 11:40:04 AM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

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		FY2025	FY2026	FY2027	FY2028	FY2029
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

The bill would establish a crime for knowingly exposing a child or vulnerable adult fentanyl.

Assumptions

The establishment of new crimes will undoubtedly lead to additional caseloads and workloads, however there is not enough information to determine the impact on public defender workloads.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Fiscal Impact

References/Sources

Agency Contact:

Agency Fiscal Note Coordinator Signature: Kevin Kajer

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SF456 - 0 - Fentanyl Exposure Criminal Penalties Establish

Chief Author: **Paul Utke**
 Committee: **Judiciary And Public Safety**
 Date Completed: **2/7/2025 11:21:39 AM**
 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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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029
Total	-	-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
	Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029
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: Susan Nelson **Date:** 2/6/2025 11:40:18 AM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

State Cost (Savings) Calculation Details

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

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill adds to Minn. Stat. § 152.137 a new provision, subd. 2(c), which provides a felony penalty (maximum 5 years imprisonment and/or a \$10,000 fine) for permitting a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest fentanyl. No effective date is specified.

Assumptions

The bill will take effect August 1, 2025, and apply to crimes committed on or after that date.

The new crime is identical to the existing offense found in Minn. Stat. § 152.137, subd. 2(b), except that subd. 2(b) concerns methamphetamine, its precursors, and its paraphernalia, while subd. 2(c) concerns fentanyl.

Given these similarities, it is assumed that the Sentencing Guidelines Commission will assign the same severity level (SL) to the new offense (subd. 2(c)) as is now assigned to the existing offense (subd. 2(b)). The existing offense under subd. 2(b) is ranked at SL D3.

The frequency at which convictions for the new offense will occur is not known. The number of convictions for the new offense is assumed to be related to the number of convictions for the existing methamphetamine offense (subd. 2(b)). Because it is assumed that these offenses may plausibly come to light in medical emergencies, the ratio between methamphetamine-related emergency department (ED) visits and fentanyl-related ED visits is assumed to be approximately equal to the ratio between existing subd. 2(b) and future 2(c) offenses.

Nationally, in 2023, 547,491 ED visits were estimated to have been methamphetamine-related, while 277,744 were estimated to have been fentanyl-related. It is therefore assumed that the number of new subd. 2(c) offenses will be 50.7 percent (277,744 ÷ 547,491) as large as the number of existing subd. 2(b) offenses.

According to MSGC monitoring data from 2019 to 2023, there were 24 cases sentenced under subd. 2(b). This is an annual average five cases per year. Of those, 8.3 percent received prison sentences with an average pronounced sentence of 16.5 months (serve 2/3 term of imprisonment = 11 months); and 75 percent received local confinement as a condition of their stayed probationary sentences. The average pronounced local confinement time was 72 days (serve 2/3 term = 48 days).

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Based on the assumptions, it is estimated that there will be minimal prison-bed impact: There will be an eventual need for

one additional prison bed, but not in every year.

With an expected annual number of cases 50.7 percent as large as the existing subd. 2(b) offenses; and an expected prison rate of 8.3 percent, there will be less than one additional prison case annually (0.415 cases) with an expected average duration of 16.5 months, assuming service of 2/3 of the pronounced sentence (11 mos.); $0.415 \text{ prison cases} \times 11 \text{ mos. to serve} = 4.565 \div 12 \text{ mos.} = 0.38 \text{ prison beds annually.}$

Local Fiscal Impact

It is estimated that there will be minimal impact on local correctional beds statewide. There will be four or five new cases annually requiring local felony supervision; and three or four cases (75%) will receive local confinement as a condition of felony probation for an average pronounced confinement time of 72 days. ($(3.75 \text{ cases} \times 48 \text{ days}) = 180 \div 365 = 0.493 \text{ local correctional beds.}$)

References/Sources

Drug Abuse Warning Network (DAWN), National Estimates from Drug-Related Emergency Department Visits, 2023 (Substance Abuse and Mental Health Services Administration (SAMHSA), 2024) (retrieved Jan. 27, 2025, at <https://www.samhsa.gov/data/sites/default/files/reports/rpt53161/dawn-national-estimates-2023.pdf>), Table A4.

2019-2023 MSGC Monitoring data.

Agency Contact:

Agency Fiscal Note Coordinator Signature: Jill Payne

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SF456 - 0 - Fentanyl Exposure Criminal Penalties Establish

Chief Author: **Paul Utke**
 Committee: **Judiciary And Public Safety**
 Date Completed: **2/7/2025 11:21:39 AM**
 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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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029
Total	-	-	-	-	-	-
Biennial Total				-		-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2025	FY2026	FY2027	FY2028	FY2029
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: Susan Nelson **Date:** 2/6/2025 8:52:28 PM
Phone: 651-296-6054 **Email:** susan.nelson@lbo.mn.gov

State Cost (Savings) Calculation Details

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

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2025	FY2026	FY2027	FY2028	FY2029	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

SF456-0 modifies Minn. Stat. § 152.137 at subd. 2, by adding a new paragraph (c) making it a crime for a person to knowingly cause or permit a child or vulnerable adult to inhale, be exposed to, have contact with, or ingest fentanyl. Pursuant to the language of Minn. Stat. § 152.137, subd. 3, which is unchanged by the bill, violations of the new subd.2(c) would carry felony penalties.

Assumptions

It is assumed that there will be litigation about the applicability of subd.2(c) to currently lawful uses of fentanyl (e.g. legitimate administration by licensed medical professionals).

It is assumed that criminal case filings will increase because the bill creates a new crime. It is assumed the number of new filings will be similar to the number of current cases filed under Minn. Stat. § 152.137, subd. 2(b), which prohibits the same conduct with respect to methamphetamine.

It is assumed that new cases charged under the provisions of this bill will take a similar amount of judge and staff time as other felony drug cases.

Based on the anticipated number of cases detailed below, it is assumed that judicial branch will absorb the increased workload as a result of this bill. This bill is not expected to have a significant fiscal impact on the judicial branch.

Expenditure and/or Revenue Formula

Based on five years of judicial branch data (2020-2024), there were 99 total cases filed under Minn. Stat. § 152.137, subd. 2(b), for an annual average of just under 20 cases filed statewide. An additional 20 cases statewide per year would not have a significant fiscal impact on the branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

Agency Contact:

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Date: 2/6/2025 10:40:42 AM

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