

Fiscal Note

BILL # SB 1344

TITLE: felony murder; fentanyl; sentencing

SPONSOR: Kern

STATUS: Senate Engrossed

PREPARED BY: Geoffrey Paulsen

Description

The bill would classify as felony murder the cause of death of any person during the course of or immediate flight from an offense involving the possession for sale, transportation for sale, or manufacture of fentanyl if the offense was committed as part of a criminal enterprise and the person organized, managed, directed, supervised or financed the enterprise. Felony murder is considered first degree murder.

Estimated Impact

We estimate that the bill would increase costs for the Arizona Department of Corrections (ADC) by extending the time individuals convicted of these crimes serve in state prison. Due to a lack of information, however, we are unable to estimate the magnitude of the cost. The fiscal impact would depend on how many individuals are charged under the revised classification, and whether the longer sentences increase the inmate population enough to require the department to procure additional beds. Any impact on inmate population levels would begin in several years as individuals are charged and they move through the legal process.

The Administrative Office of the Courts (AOC) was not able to provide specific information that would assist in estimating the fiscal impact, as data regarding the number of narcotic drug offenses lacks detail on the specific drug involved and whether a death occurred during the offense.

ADC did not respond to our request for information.

Analysis

Under the definition of felony murder, anyone accused of committing certain violent felonies and drug offenses may be charged with murder if in the course of furthering the offense or immediate flight from the offense, the person causes the death of any person. Felony murder is classified as first degree murder and is eligible for the death penalty or a term of life imprisonment.

Under current law, the crime of possession of a narcotic drug for sale, transportation of a narcotic drug for sale, or manufacture of a narcotic drug, is classified as a class 2 felony if the amount of the drug is below the statutory threshold. Fentanyl is included within the current statutory definition of "narcotic drug". For a class 2 felony, statute requires a sentence of 3 to 12.5 years with a presumptive sentence of 5 years. In addition, under current law the definition of felony murder applies if an individual causes the death of any person and the individual is charged with transportation of a narcotic drug for sale and the amount of the drug exceeds the statutory threshold.

The bill would expand the felony murder definition as it applies to fentanyl if the following applies: 1) The person was engaged in the possession for sale, transportation for sale, or manufacture, regardless of the drug amount; and 2) The offense was committed as part of a criminal enterprise and the person organized, managed, directed, supervised or financed the enterprise.

(Continued)



Local Government Impact

The bill could increase county costs for prosecuting offenders under the revised sentencing guidelines due to the potential for additional and more complicated trials. We are unable to estimate this impact in advance.

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