

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3073-05  
Bill No.: SB 1023  
Subject: Crimes and Punishment; Criminal Procedure  
Type: Original  
Date: February 27, 2006

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
DNA Profiling Analysis	\$0 to (Unknown)	\$0 to (Unknown)	\$0 to (Unknown)
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>	<b>\$0 to (Unknown)</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Public Safety – Director’s Office** assume the proposal would have no fiscal impact on their agency.

Officials from the **Office of the Attorney General (AGO)** assume there may be some cases brought under provisions other than Section 547.035. It is possible that the AGO will represent the state in litigating cases brought under these other provisions. While the AGO anticipates that very few of these cases will be brought, there would be costs associated with litigation in this area. AGO anticipates the costs would be less than \$100,000.

**Oversight** assumes the Office of the Attorney General could absorb the cost of litigation for cases brought under provisions other than Section 547.035 within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would have no fiscal impact on the courts.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume there are three individuals who may qualify for restitution. MHP estimates the total payments to total \$875,000. MHP assumes payments of \$36,500 per person per year would reach \$109,500 per year. Since MHP cannot estimate how many individuals will receive restitution, officials assume the impact may be from \$0 to \$109,500 per year.

Officials from the **Department of Corrections (DOC)** assume the fiscal impact due to passage of this proposal is unknown because the number of offenders in the future who may be exonerated by DNA profiling cannot be estimated.

**Oversight** assumes the restitution payments from the DNA Profiling Analysis Fund could range from \$0 to Unknown per fiscal year.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
<b>DNA PROFILING ANALYSIS FUND</b>			
<u>Costs – Department of Public Safety</u>			
Restitution	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON DNA PROFILING ANALYSIS FUND</b>			
	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>	<u>\$0 to</u> <u>(Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

### FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

### DESCRIPTION

The proposed legislation allows any individual exonerated due to DNA testing to file for restitution payments. Currently, the petition must be filed within one year of the release from confinement after August 28, 2003.

Testing ordered under the statute allowing offenders to file a post-conviction motion for such testing or by the order of a court, if such person was exonerated on or before August 28, 2004, or testing ordered under the statute requiring mandatory DNA profiling analysis of all felony offenders, if the person was exonerated after August 28, 2004, demonstrates the person's innocence.

The Department of Corrections will determine the aggregate amount of restitution owed during a fiscal year.

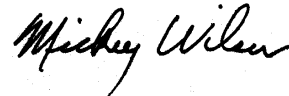
If a person undergoes DNA testing after filing a motion with the court for such testing, instead of as part of the mandatory DNA profiling analysis of all felony offenders, and the testing confirms the person's guilt, he or she can be sanctioned and held liable for the costs of the testing.

A petition for payment of restitution may only be filed by the individual determined to be actually innocent or the individual's legal guardian. No claim or petition for restitution may be filed by the individual's heirs or assigns. An individual's right to receive restitution is not assignable or otherwise transferrable. The state's obligation to pay restitution shall cease upon the individual's death. Any beneficiary designation that purports to bequeath, assign, or otherwise convey the right to receive such restitution shall be void and unenforceable.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of the Attorney General  
Office of State Courts Administrator  
Department of Corrections  
Department of Public Safety  
– Director’s Office  
– Missouri State Highway Patrol



Mickey Wilson, CPA  
Director  
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