

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 3073-06
Bill No.: Truly Agreed To and Finally Passed HCS for SB 1023
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: May 25, 2006

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
General Revenue	\$0 or (Unknown) to More than \$576,922	\$0 or (Unknown) to More than \$702,124	\$0 or (Unknown) to More than \$702,124
Total Estimated Net Effect on General Revenue Fund	\$0 or (Unknown) to More than \$576,922	\$0 or (Unknown) to More than \$702,124	\$0 or (Unknown) to More than \$702,124

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

***Offsetting Revenues and Costs in the DNA Profiling Analysis Fund of more than \$700,000 per fiscal year.**

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 8 pages.

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

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2007	FY 2008	FY 2009
Local Government**	\$0	\$0	\$0

****Offsetting Revenues and Costs to Crime Laboratories of more than \$700,000 per fiscal year.**

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety – Director’s Office** and the **Boone County Sheriff’s Department** assume the proposal would have no fiscal impact on their agencies.

In response to a previous version of the proposal (Perfected SB 1023, LR # 3073-05), officials from the **Office of the Attorney General (AGO)** assumed 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.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would extend the August 28, 2006 expiration date for the \$30 surcharge on certain criminal cases to 2006. In the first eleven months of 2005, \$643,614 was deposited into the DNA Profiling Analysis Fund. With the extension of the expiration date, CTS would anticipate that approximately this amount would be deposited into the fund in any given year.

The proposal would revise the amount assessed to provide that the \$30 will be assessed except when the defendant pleads guilty or is found guilty of a class B felony, class A felony, or an unclassified felony, under chapter 195, RSMo, in which case, the surcharge shall be sixty dollars. For only A and B felony cases, the collection amount would be \$2,360 per year. $2,300 \text{ cases } (568 - A + 1,768 - B = 2336) \times \$60 \text{ proposed cost } \times 20\% \text{ collection}$. For all cases, the collection amount would be \$101,616 per year. $8,468 \text{ cases } \times \$60 \text{ proposed cost } \times 20\% \text{ collection}$.

The proposal appears to provide that all of these funds might be deposited to general revenue if certain state revenue increases do not occur. In that instance, the "DNA Profiling Analysis Fund" would receive no moneys for that fiscal year.

Oversight assumes funds deposited into the DNA Profiling Analysis Fund would be distributed by the Department of Public Safety to crime laboratories for the implementation of the DNA Profiling System.

Oversight assumes the provisions the proposal could result in no funds deposited into the DNA Profiling Analysis Fund in certain years where the state general revenues did not increase by two percent or more in the immediate previous fiscal year. Oversight cannot obtain projections on the state's general revenue growth beyond one fiscal year. Therefore, Oversight has ranged the fiscal impact from \$0 to more than approximately \$700,000 per fiscal year.

Oversight assumes this proposed legislation extends an existing provision by removing or changing the expiration date. Oversight assumes removing or changing the expiration date will extend any fiscal impact associated with the existing provision. Therefore, Oversight has reflected the fiscal impact in the fiscal note.

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.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** assumed 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 will be paid by the Department of Corrections from the General Revenue Fund, and could range from \$0 to Unknown per fiscal year.

Officials from the **Office of the Secretary of State (SOS)** assume many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this proposal for Administrative Rules is less than \$1,500. The SOS recognizes this is a small amount and does not expect additional funding would be required to meet these costs. However, SOS also recognizes that many such bills may be passed in a given year and that collectively the costs may be in excess of what the SOS can sustain with their core budget. Any additional required funding would be handled through the budget process.

This proposal would increase Total State Revenue.

Officials from the Office of Prosecution Services, Office of the State Public Defender, Columbia Police Department, Greene County Sheriff's Department, Independence Police Department, Jackson County Sheriff's Department, Kansas City Police Department, Springfield Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
GENERAL REVENUE FUND			
<u>Revenues</u> – State Treasurer’s Office			
Court fees	\$0 or More than \$576,922	\$0 or More than \$702,124	\$0 or More than \$702,124
<u>Costs</u> – Department of Corrections			
Restitution (§650.058)	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>	<u>\$0 or (Unknown)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
	<u>\$0 or (Unknown) to More than \$576,922</u>	<u>\$0 or (Unknown) to More than \$702,124</u>	<u>\$0 or (Unknown) to More than \$702,124</u>
DNA PROFILING ANALYSIS FUND			
<u>Revenues</u> – State Treasurer’s Office			
Court fees (§488.5050)	\$0 or More than \$576,922	\$0 or More than \$702,124	\$0 or More than \$702,124
<u>Costs</u> – Department of Public Safety			
Distributions to crime laboratories (§488.5050)	<u>\$0 or (More than \$576,922)</u>	<u>\$0 or (More than \$702,124)</u>	<u>\$0 or (More than \$702,124)</u>
ESTIMATED NET EFFECT ON DNA PROFILING ANALYSIS FUND			
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
POLITICAL SUBDIVISIONS			
<u>Revenues</u> – Crime Laboratories			
Distributions from DNA Profiling			
Analysis Fund (§488.5050)			
	\$0 or More than \$576,922	\$0 or More than \$702,124	\$0 or More than \$702,124
<u>Costs</u> – Crime Laboratories			
Implementation of DNA Profiling			
System (§488.5050)			
	<u>\$0 or (More than \$576,922)</u>	<u>\$0 or (More than \$702,124)</u>	<u>\$0 or (More than \$702,124)</u>
ESTIMATED NET EFFECT ON POLITICAL SUBDIVISIONS			
	<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 extends the expiration date from August 28, 2006, to August 28, 2013, for certain surcharges on criminal cases in which the defendant pleads guilty to or is convicted of a felony or misdemeanor. The surcharge is \$30 when the defendant is found guilty of or pleads guilty to a felony, except when the person is convicted of a serious drug offense, in which case, the surcharge is \$60. The surcharge is \$15 when the defendant is found guilty of or pleads guilty to a misdemeanor. This money is deposited into the DNA Profiling Analysis Fund and used only for the DNA profiling analysis of convicted offender samples, unless the state's general revenue in the previous fiscal year did not increase by two percent or more, in which case the state treasurer shall deposit moneys received into the state general revenue fund. (§488.5050)

The proposal requires DNA evidence to be preserved by the investigating law enforcement agency. Currently, DNA evidence is preserved by the Missouri State Highway Patrol. (§650.056)

DESCRIPTION (continued)

The proposal allows a person determined to be actually innocent of a crime, based on DNA profiling analysis, to receive \$50 for each day of post-conviction incarceration and an automatic expungement of any records concerning the crime for which the person was innocent. (§§650.055, 650.058)

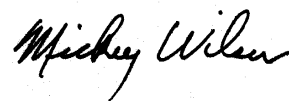
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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
Office of the Secretary of State
Boone County Sheriff's Department

NOT RESPONDING

Office of Prosecution Services, Office of the State Public Defender, Columbia Police Department, Greene County Sheriff's Department, Independence Police Department, Jackson County Sheriff's Department, Kansas City Police Department, Springfield Police Department, St. Louis County Police Department, and the St. Louis Metropolitan Police Department



Mickey Wilson, CPA

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