

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4746-01
Bill No.: SB 1062
Subject: Courts; Crimes and Punishment; Criminal Procedure; Disabilities; Mental Health;
Victims of Crime
Type: Original
Date: March 27, 2006

FISCAL SUMMARY

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

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

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 4 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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Health and Senior Services** and the **Department of Social Services** assume the proposal would have no fiscal impact on their agencies.

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

Officials from the Office of Prosecution Services and the Office of the State Public Defender did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2007 (10 Mo.)	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</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 provides that in any criminal proceeding involving an offense against the person, a sexual offense, or an offense against the family, upon the motion of the prosecuting attorney, the court may order that an in-camera videotaped deposition of the testimony of a mentally retarded person be admissible for use as substantive evidence at preliminary hearings and at trial.

The court may order that such videotaped testimony be admissible in lieu of the person's personal appearance and testimony at hearing or trial, if a mental health or social work professional certifies that the person is mentally retarded, if the person is an alleged victim or an essential witness to the proceeding, and if the court finds, at a hearing, that a likelihood exists that the mentally retarded person would suffer significant emotional or psychological trauma as the result of testifying in the presence of the defendant. The court may also make such an order if it finds that the person could not reasonably communicate to the trier of fact in the presence of the defendant due to emotional trauma.

The prosecuting attorney must inform the defendant and the defendant's attorney at least ten days prior to the taking of a videotaped deposition of the prosecuting attorney's intention to have the person provide testimony by videotape. The court shall preside over the deposition proceedings.

The court may also exclude the defendant from the videotaped deposition proceedings, upon a finding that the person may suffer trauma, as provided for in this act. If the court excludes the defendant from the deposition proceedings, and the excluded defendant does not have counsel and it appears that defendant will be unable to obtain counsel within a reasonable period of time, the court shall appoint the public defender or other counsel to represent the defendant in the deposition proceedings.

DESCRIPTION (continued)

The attorney for the defendant shall have at least two opportunities to cross-examine a mentally retarded person who is to provide testimony by videotape, once prior to a preliminary hearing, and once prior to the trial.

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 State Courts Administrator
Department of Health and Senior Services
Department of Social Services

NOT RESPONDING

Office of Prosecution Services
Office of the State Public Defender



Mickey Wilson, CPA
Director
March 27, 2006