

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0990-01
Bill No.: SB 282
Subject: Criminal Procedure; Courts; Evidence
Type: Original
Date: February 10, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$352,186 to Unknown)	(\$398,019 to Unknown)	(\$20,051 to Unknown)
Total Estimated Net Effect on <u>All</u> State Funds	(\$352,186 to Unknown)	(\$398,019 to Unknown)	(\$20,051 to Unknown)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
None			
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

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

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** and the **Office of State Public Defender** assume the proposed legislation would have no fiscal impact on their agencies.

Officials from the **Department of Public Safety - State Highway Patrol (MHP)** assume the proposal would require them to acquire and store all the biological case evidence specimens pertaining to felonies, as required under the database statute, for an unspecified amount of time.

In 1999 Missouri circuit court trials resulted in approximately 3,000 felony convictions meeting the database requirements; this may bring anywhere from 15,000 to 30,000 specimens per year, and this number would continue to grow since no time frame is specified. One of the crime lab's current evidence lockers is 230 square feet and stores approximately 5,000 specimens. Storing 30,000 specimens would require 6 times more space, or approximately 1,400 square feet. MHP would need a secure facility. This storage facility would need to be approximately 1,400 square feet.

The DNA convicted offender lab is 1,081 square feet and accommodates two capillary electrophoresis systems. If MHP were to analyze just 15,000 casework specimens per year, the caseload would increase three-fold and would require three times the current manpower, leading to the need for a new lab and FTEs. MHP would need a new crime lab of 3,500 square feet to accommodate the 20 new FTE. MHP assumes it would require 3 FTE Laboratory Evidence Technicians, 2 FTE Laboratory Records and Evidence Control Clerks, 5 DNA Technicians, 8 DNA Examiners, and 2 DNA Examiner Supervisors, plus related equipment and expense for each position.

Oversight assumes, based on DOC's assumptions, that there are 8,613 inmates serving sentences which fall under the felony provisions of the proposal. If 20% of those currently serving wish to serve notice to the prosecuting attorney and the trial court subsequently orders the state to compare DNA test results regarding the trial evidence and the defendant, MHP would be subjected to approximately 1,720 more cases. Allowing three pieces of evidence per case would bring the total additional specimen count to 5,160. Currently, MHP utilizes six FTE to perform DNA testing on approximately 3,000 specimens. To perform DNA testing on the additional specimens, Oversight assumes MHP would require 10 DNA Examiners plus the related equipment for each position. Oversight assumes there would be an increase in caseload during FY 2002 and FY 2003 as inmates begin utilizing this provision. The rush would likely subside by FY 2004; therefore, Oversight has included costs for FTE during FY 2002 and FY 2003 only. Oversight assumes MHP would lease crime lab space and equipment for FY 2002 and FY 2003; however, cost estimates are not available at this time and are reflected in this fiscal note as **ASSUMPTION** (continued)

unknown. In addition, Oversight assumes MHP would require a storage facility for the additional DNA evidence it would be required to maintain.

Officials from the **Department of Corrections (DOC)** assume it is not possible for DOC to estimate the number of cases that would occur in a year where this proposed DNA procedure would apply. Potentially, there are many thousands of offenders who could have an interest in pursuing a DNA evidence defense as the DNA analysis technology progresses over time. A CY2000 snapshot in time of the inmate population for offenders confined for sex offenses and for offenders confined for offense categories that would be considered as Dangerous Felonies, DOC has 8,613 persons in prison that may fit into that group. DOC's responsibility in this matter extends beyond confined inmates and would also include persons on parole or on probation and this number is not included in the 8,613 figure noted in the above assumption.

The minimum cost for DNA forensic testing is \$450. DOC estimates the potential cost could be significant or in excess of \$100,000 annually.

Oversight assumes the costs for DNA testing will be incurred by the Missouri State Highway Patrol (MHP). Those costs are reflected in MHP's response.

Officials from the **Office of Prosecution Services (OPS)** assume the cost of the proposed legislation is unknown but greater than \$100,000 statewide. Increased costs would be due to defense of such cases in which motions would be filed as well as the possibility of bearing the cost of DNA testing if state funding is not appropriated by the legislature as the proposed legislation does not directly address which entity is to bear the cost of DNA testing and any costs born by the state would be subject to appropriation by the legislature. It cannot be assumed that such costs of defense of cases and DNA testing could be absorbed with existing resources by prosecutors or counties.

While Office of Prosecution Services believes it is not possible to estimate the number of cases that would occur in a year where this proposed testing would apply, past Oversight estimates have assumed approximately 1,720 more. Even with the minimum testing amount of \$450 per case, this would amount to a cost of \$774,000. This cost is for testing alone and does not include the increased caseloads of defending at least 1,740 cases statewide.

Oversight assumes the costs for prosecutors would be limited to the cost of defense of such cases where the proposed testing would apply. Oversight assumes these costs could be absorbed with existing resources.

FISCAL IMPACT - State Government

FY 2002
(10 Mo.)

FY 2003

FY 2004

GENERAL REVENUE FUND

BLG:LR:OD (12/00)

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
<u>Costs - State Highway Patrol (MHP)</u>			
Salaries	(\$230,830)	(\$283,921)	\$0
Fringe Benefits	(76,936)	(94,631)	\$0
Expense and Equipment	<u>(44,420)</u>	<u>(19,467)</u>	<u>(\$20,051)</u>
Subtotal	(\$352,186)	(\$398,019)	(\$20,051)
Lease Crime Lab and Equipment	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>\$0</u>
Total <u>Costs</u> - State Highway Patrol	<u>(\$352,186 to Unknown)</u>	<u>(\$398,019 to Unknown)</u>	<u>(\$20,051 to Unknown)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

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

DESCRIPTION

Current law requires the Department of Corrections or Highway Patrol to ensure compliance with DNA testing requirements for certain violent or sexual felonies. This proposal requires the Department of Public Safety to preserve any evidence from the criminal trial which has been or can be subject to DNA testing. It also allows a defendant convicted of violent or sexual felonies requiring testing to make a post-conviction motion for DNA testing of evidence from trial. The defendant must establish a prima facie case that identity was contested in the criminal case. The court shall grant the defendant's motion upon a determination that the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence. If granted, the state shall compare DNA test results regarding the trial evidence and the defendant.

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

BLG:LR:OD (12/00)

Office of State Courts Administrator
Department of Corrections
Department of Public Safety - State Highway Patrol
Office of Prosecution Services
Office of State Public Defender

NOT RESPONDING: Office of Attorney General

A handwritten signature in black ink, appearing to read "Jeanne Jarrett", with a stylized, cursive script.

Jeanne Jarrett, CPA
Director

February 10, 2001