

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2395-08
Bill No.: Perfected SS#2 for SB 650
Subject: Crimes and Punishment; Criminal Procedure
Type: Original
Date: February 6, 2002

FISCAL SUMMARY

| ESTIMATED NET EFFECT ON STATE FUNDS | | | |
|---|------------------------------|------------------------------|------------------------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| General Revenue | Less than (\$100,000) | Less than (\$100,000) | Less than (\$100,000) |
| | | | |
| Total Estimated Net Effect on <u>All</u> State Funds | Less than (\$100,000) | Less than (\$100,000) | Less than (\$100,000) |

| ESTIMATED NET EFFECT ON FEDERAL FUNDS | | | |
|---|------------|------------|------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| None | | | |
| | | | |
| Total Estimated Net Effect on <u>All</u> Federal Funds | \$0 | \$0 | \$0 |

| ESTIMATED NET EFFECT ON LOCAL FUNDS | | | |
|--|------------|------------|------------|
| FUND AFFECTED | FY 2003 | FY 2004 | FY 2005 |
| Local Government | \$0 | \$0 | \$0 |

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the State Courts Administrator**, **Office of Prosecution Services**, **Office of Attorney General**, and the **Department of Public Safety – State Highway Patrol** each assume the proposed legislation would have no fiscal impact on their respective agencies.

Officials from the **Office of the State Public Defender** assume that existing staff could provide representation for those few cases arising where indigent persons were charged with forcible rape, attempted forcible rape, forcible sodomy, or attempted forcible sodomy due to the elimination of the statute of limitations. Last year, the State Public Defender System provided representation in 182 rape cases and 87 sodomy cases. However, passage of more than one bill increasing penalties on existing crimes or creating new crimes would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused in the now more serious cases or in the new additional cases.

Officials from the **Department of Corrections (DOC)** state this proposal removes the statute of limitations for prosecuting forcible rape, attempted forcible rape, forcible sodomy, or attempted forcible sodomy. These are unclassified crimes. It is at the discretion of the Prosecutor of a case (upon examination and weighing of the crime facts) how they choose to prosecute a rape or sodomy case and what the defendant will be charged with. Pursuant to existing law, when these crimes are charged as a class A felony, prosecution may be commenced at any time; in other words, the statute of limitations does not apply.

In FY 01 there were 3 admissions to DOC for Forcible Rape when the time between the offense and sentence date exceeded 3 years. There were 7 such admissions for Forcible Sodomy. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY 01 average of \$35.78 per inmate per day, or an annual cost of \$13,060 per inmate) or through supervision provided by the Board of Probation and Parole (FY 01 average of \$3.34 per offender per day, or an annual cost of \$1,219 per offender).

The DOC is unable to determine the number of additional inmate beds that may be required as a consequence of passage of this proposal. Estimated construction cost for one new medium to maximum security inmate bed is \$55,000. Utilizing this per-bed cost provides for a conservative estimate by the DOC, as facility start-up costs are not included and entire facilities and/or housing units would have to be constructed to cover the cost of housing new commitments resulting from the cumulative effect of various new legislation, if adopted as statute.

ASSUMPTION (continued)

In summary, supervision by the DOC through probation or incarceration would result in additional unknown costs to the department. Eight (8) additional persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. The DOC assumes the impact would be less than \$100,000.

| <u>FISCAL IMPACT - State Government</u> | FY 2003 | FY 2004 | FY 2005 |
|---|---|---|---|
| GENERAL REVENUE FUND | | | |
| <u>Costs – Department of Corrections</u> | Less than | Less than | Less than |
| Incarceration/Probation costs | <u>(\$100,000)</u> | <u>(\$100,000)</u> | <u>(\$100,000)</u> |
| ESTIMATED NET EFFECT ON GENERAL REVENUE FUND | <u>Less than (\$100,000)</u> | <u>Less than (\$100,000)</u> | <u>Less than (\$100,000)</u> |
| <u>FISCAL IMPACT - Local Government</u> | FY 2003 | FY 2004 | FY 2005 |
| | <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

This proposal removes the statute of limitations for forcible rape, attempted forcible rape, forcible sodomy, and attempted forcible sodomy prosecutions. A three-year statute of limitations would apply unless a legal complaint, police report, or hospital evidence to be documented within three years of the alleged incident.

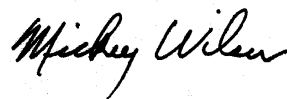
This proposal contains an emergency clause.

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

SOURCES OF INFORMATION

BLG:LR:OD (12/01)

Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender
Department of Corrections
Department of Public Safety
– State Highway Patrol
Office of Attorney General

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA
Acting Director

February 6, 2002