

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0368-01
Bill No.: HB 49
Subject: Courts; Criminal Procedure
Type: Original
Date: February 14, 2005

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
General Revenue	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Less than \$100,000)	(Less than \$100,000)	(Less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

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

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2006	FY 2007	FY 2008
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of the Attorney General** assume the proposal would have no fiscal impact on their agency.

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** assume the proposal would not have a significant direct fiscal impact on county prosecutors.

Officials from the **Office of the State Public Defender (SPD)** assume the proposed legislation requires the state to be notified when a petition for a 120 day callback is granted a hearing by the sentencing court. Neither existing law nor this proposed legislation requires the appointment of counsel at these hearings. Nevertheless, some courts appoint the SPD on their own. The SPD assumes the proposal would have an uncertain impact on their office as a result of the uncertainty of some courts who appoint the SPD frequently.

ASSUMPTION (continued)

Oversight assumes the proposal would have no impact on the Office of the State Public Defender because the legislation does not require the appointment of a Public Defender.

Officials from the **Department of Corrections (DOC)** assume victims/witness statements required in the reports they furnish to the sentencing courts are statements DOC has already received (in file) from said parties and that DOC would not have to identify and seek out statements from them. DOC currently provides the court with this type of report well within the time frame noted in this bill. It appears passage of the bill could have the potential to lessen the amount of petitions, therefore the offenders may spend more time in prison.

Currently, the DOC cannot predict the amount of additional commitment time which may result from the change(s) outlined in this proposal. An increase in time served depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced longer 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 (FY04 average of \$38.37 per inmate per day, or an annual cost of \$14,005 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender per day, or an annual cost of \$1,150 per offender).

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

<u>FISCAL IMPACT - State Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
GENERAL REVENUE FUND			
<u>Costs – Department of Corrections</u>			
Incarceration/probation	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)	(Less than <u>\$100,000</u>)

<u>FISCAL IMPACT - Local Government</u>	FY 2006 (10 Mo.)	FY 2007	FY 2008
	<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.

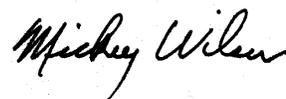
DESCRIPTION

The proposed legislation would make changes to the procedure required for the early release of first-time, nonviolent offenders after 120 days of incarceration. The proposal would require the person seeking early release to file a copy of the petition with the prosecuting attorney who prosecuted the offense and who would represent the state in the proceeding. Any victims or witnesses of the crime would be offered an opportunity to make a statement to the court. The Department of Corrections would be required to provide the court with a report on the offender within 60 days of the filing of the petition.

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
Office of Prosecution Services
Office of the State Public Defender



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