

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1902-01
Bill No.: HB 791
Subject: Crimes and Punishment; Fees; Prisons and Jails; Corrections Department
Type: Original
Date: March 23, 2011

Bill Summary: This proposal revises various laws regarding DNA profiling analysis and the surcharge which helps pay for it.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
General Revenue	\$0 or (\$1,400,000)	\$0 or (\$233,333)	\$0
Total Estimated Net Effect on General Revenue Fund	\$0 or (\$1,400,000)	\$0 or (\$233,333)	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
DNA Profiling Analysis Fund	\$0 or \$1,400,000	\$1,166,667 or \$1,400,000	\$1,400,000
Total Estimated Net Effect on Other State Funds	\$0 or \$1,400,000	\$1,166,667 or \$1,400,000	\$1,400,000

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2012	FY 2013	FY 2014
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Public Safety - Missouri Highway Patrol - Crime Laboratory Division (MHP)** states that at the beginning of FY '10, all the funding intended for the DNA profiling fund, approximately \$1.4 million annually, was redirected to General Revenue along with all associated expenses. This funding originates from court fees assessed on individuals convicted of a felony or misdemeanor. This legislation would redirect the funding and all associated expenses currently diverted to General Revenue back to the DNA Profiling Fund.

The MO UCR (Missouri - Unified Crime Reporting) statistics calculated approximately 1,700 arrests for robbery in 2010. The proposed statute requires collection of DNA samples from any felony arrest involving 1st or 2nd degree robbery. However, the Highway Patrol believes these costs associated with collecting these samples will be minimal and can be absorbed.

Officials from the **Office of the State Courts Administrator** assume the proposal would not fiscally impact the courts.

Officials from the **Office of Prosecution** and the **Office of the State Treasurer** each assume the proposal would not fiscally impact their respective agencies.

For the purpose of this proposed legislation, officials at the **Office of State Public Defender (SPD)** cannot assume that existing staff will provide competent, effective representation for any new cases arising where indigent persons are charged with the proposed new crime of refusing DNA sampling, a new class D felony.

Passage of bills increasing penalties on existing crimes, or creating new crimes, requires the State Public Defender System to further extend resources. While the number of new cases (or cases with increased penalties) may be too few or uncertain to request additional funding for this specific bill, the SPD will continue to request sufficient appropriations to provide competent and effective representation in all its cases.

Oversight assumes the SPD can absorb the additional caseload that may result from this proposal.

ASSUMPTION (continued)

Officials from the **Department of Corrections (DOC)** state this proposal revises various laws regarding DNA profiling analysis and the surcharge which helps pay for it. Penalty provisions, the component of the bill to have potential fiscal impact for DOC, is for up to a class D felony. Currently, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. 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 of direct offender costs either through incarceration (FY10 average of \$16.397 per offender, per day, or an annual cost of \$5,985 per inmate) or through supervision provided by the Board of Probation and Parole (FY10 average of \$3.92 per offender, per day or an annual cost of \$1,431 per offender).

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders;
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence;
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

The receipts into the DNA Profiling Analysis Fund (0772) for the past five years have been:

FY 2010	\$ 5,098
FY 2009	\$1,464,814
FY 2008	\$1,477,609
FY 2007	\$1,434,384
FY 2006	\$1,324,125

The proposal has an emergency clause; therefore, **Oversight** will reflect MHP's estimate of \$1.4 million in FY 2012 (full year). Oversight will range the impact from \$0 or \$1.4 million (or partial year portion thereof) depending upon whether the state's General Revenue Fund or the DNA Profiling Analysis Fund would have received the proceeds.

ASSUMPTION (continued)

The proposal also removes the August 23, 2013 sunset of the \$30 surcharge assessed as costs in all circuit court criminal cases. **Oversight** assumes this will result in a continued stream of \$1.4 million annually into the DNA Profiling Analysis Fund (and not the General Revenue Fund) since Subsection 488.5050.4 (which stated the proceeds could possibly go the General Revenue Fund instead) was removed with this proposal also.

<u>FISCAL IMPACT - State Government</u>	FY 2012	FY 2013	FY 2014
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GENERAL REVENUE

<u>Loss</u> - to the DNA Profiling Analysis Fund - removal of the stipulation that the state's general revenue increased by 2% or more in the previous year before proceeds directed there	\$0 or <u>(\$1,400,000)</u>	\$0 or <u>(\$233,333)</u>	<u>\$0</u>
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ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>\$0 or (\$1,400,000)</u>	<u>\$0 or (\$233,333)</u>	<u>\$0</u>
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DNA PROFILING ANALYSIS FUND

<u>Gain</u> - from the General Revenue Fund - removal of the stipulation that the state's general revenue increased by 2% or more in the previous year before proceeds directed here	\$0 or \$1,400,000	\$0 or \$233,333	\$0
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<u>Income</u> - Removal of the sunset of the \$30 surcharge currently scheduled for August 28, 2013	<u>\$0</u>	<u>\$1,166,667</u>	<u>\$1,400,000</u>
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ESTIMATED NET EFFECT TO THE DNA PROFILING ANALYSIS FUND	<u>\$0 or \$1,400,000</u>	<u>\$1,166,667 or \$1,400,000</u>	<u>\$1,400,000</u>
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FISCAL IMPACT - Local Government

FY 2012

FY 2013

FY 2014

\$0

\$0

\$0

FISCAL IMPACT - Small Business

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

FISCAL DESCRIPTION

This bill changes the laws regarding DNA profiling analysis. In its main provisions, the bill:

(1) Changes when a surcharge is assessed for deposit into the DNA Profiling Analysis Fund to include all criminal cases, except traffic violations, in which the defendant pleads guilty, is found guilty, or is convicted of a felony;

(2) Removes the provision requiring the moneys collected by the surcharge to be deposited into the General Revenue Fund if the state's general revenue did not increase by 2% or more and removes the expiration date of August 28, 2013, regarding the assessment of the surcharge;

(3) Specifies that the moneys deposited into the DNA Profiling Analysis Fund are to be used by the State Highway Patrol Crime Laboratory for the purposes of the DNA Profiling System;

(4) Adds robbery in the first and second degrees or any sexual offense in Chapter 566, RSMo, to the list of crimes for which a person arrested who is 17 years of age or older must be fingerprinted and blood or other scientifically accepted biological sample for the purpose of DNA profiling analysis is to be collected;

(5) Specifies that when the state accepts a person from another state under any interstate compact, other reciprocal agreement, or law, the acceptance is conditional on the person providing a DNA sample if the person was convicted of, found guilty of, or pleaded guilty to a felony offense;

(6) Requires any person subject to DNA collection and profiling analysis to provide a DNA sample at the time of registering as a sex offender;

FISCAL DESCRIPTION (continued)

(7) Specifies that any person required to submit a DNA sample under these provisions who knowingly refuses or fails to provide a sample will be guilty of a class D felony; and

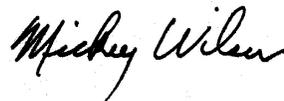
(8) Specifies that when a DNA sample is taken of an arrestee for any offense under Section 650.055.1 and the warrant is refused, the arresting agency must notify the crime laboratory within 90 days of warrant refusal and the crime laboratory must expunge from the database all DNA records and destroy the DNA sample taken at the arrest for which the warrant was refused, unless the crime laboratory determines that the person is otherwise obligated to submit a DNA sample for any other qualifying offense or arrest that would require a sample to be taken and retained.

The bill contains an emergency clause for the provisions regarding when a surcharge is assessed, the removal of the provisions regarding the deposit of the surcharge and the expiration date of the surcharge assessment, and the use of the moneys collected by the crime laboratory.

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 State Courts Administrator
Department of Public Safety
Office of the State Treasurer
Department of Corrections
Office of Prosecution Services
Office of the State Public Defender



Mickey Wilson, CPA
Director
March 23, 2011