

Fiscal Estimate - 2005 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 05-3492/1	Introduction Number AB-648
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Subject

Retention and testing of DNA evidence; time limits for prosecution of a crime related to a sexual assault; procedures for using an eyewitness to identify a suspect; recording custodial interrogations

Fiscal Effect

State:

No State Fiscal Effect
 Indeterminate

<input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations	<input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues	<input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Decrease Costs
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Local:

No Local Government Costs
 Indeterminate

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Government Units Affected <input type="checkbox"/> Towns <input type="checkbox"/> Village <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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Fund Sources Affected	Affected Ch. 20 Appropriations
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS	

Agency/Prepared By DOJ/ Mark Rinehart (608) 264-9463	Authorized Signature Mark Rinehart (608) 264-9463	Date 9/6/2005
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Fiscal Estimate Narratives

DOJ 9/7/2005

LRB Number	05-3492/1	Introduction Number	AB-648	Estimate Type	Original
Subject					
Retention and testing of DNA evidence; time limits for prosecution of a crime related to a sexual assault; procedures for using an eyewitness to identify a suspect; recording custodial interrogations					

Assumptions Used in Arriving at Fiscal Estimate

This legislation has the potential to impact the State Crime Laboratories significantly. Under s. 974.07, the bill provides that a court may order post conviction testing by the crime labs or that a court may order the evidence sent to a facility other than the crime labs for testing. The bill further provides that the crime labs shall pay for the testing ordered under this section, including the work performed by a facility other than the crime labs if the court does not order the movant to pay for the testing.

The fiscal impact of these requirements is difficult, if not impossible, to predict. It is true that DNA testing is done on nearly every case involving a biological specimen, but it is not practical for the crime labs to test every possible sample on every piece of evidence submitted. Often, the most probative evidence is tested with due diligence to insure that any potential exculpatory evidence is tested as well. For example, a violent crime may produce a blood spatter or blood trail that can leave hundreds of blood droplets. However, only a few of these droplets need to be tested to sufficiently identify or exclude the victim and possible suspects. It is not practical to test each and every drop of blood, but under the bill courts would be free to order additional testing on any of the remaining evidence. Also, the science of DNA testing is ever changing and the development of new methods may generate requests to apply the new testing procedure in favor of the one that was used at the time of the original examination.

On average, there are approximately 2.5 samples per case. There may be as many as 30 samples in a complex case like a homicide. Work done by the crime labs costs approximately \$300 per sample. The cost to outsource a sample is approximately \$750 per sample. If a crime lab was ordered by a court to outsource a case that required 30 individual samples, the cost would total \$22,500. The crime labs have no budget to pay for outsourcing such work.

In addition, Under s. 165.75 the bill requires that DNA testing ordered under s. 974.07 shall have priority over other work of the crime labs. While the crime labs acknowledge that post conviction testing should be treated as an "important" priority, to make it the absolute priority over all other testing is troublesome. The current backlog at the crime labs is approximately 900 cases. Management of these cases is a daily challenge. The labs must make sure that testing is completed in time for scheduled court dates. There are also instances when law enforcement agencies desperately need DNA test results as part of the investigation of a case. The labs are mindful of these needs and try to manage their caseloads to meet these priorities. Establishing post conviction DNA testing as an absolute priority over all other work will adversely impact the labs' ability to effectively manage their caseloads. Allowing some latitude of the processing of these post conviction tests would better allow the labs to manage their caseload. If the language remains as written there could be times when court imposed deadlines will not be met or active cases will have to wait, exacerbating the backlog problem.

Long-Range Fiscal Implications