



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 16, 2003

Joint Committee on Finance

Paper #471

Criminal History Search Fee Increases (Justice)

[LFB 2003-05 Budget Summary: Page 288, #8]

CURRENT LAW

The Department of Justice (DOJ) performs two principal types of criminal history searches: (1) a record check based on an individual's name and other identifying characteristics, exclusive of fingerprints; and (2) a record check based on fingerprints and generally relating to employment applicants for which a fingerprint check is statutorily required. The Department charges a \$10 fee for each fingerprint card record check requested by a governmental agency or nonprofit organization, provided the request is unrelated to criminal justice or to the waiting period for purchase of handguns.

These revenues from the fee are credited to the agency's criminal history searches and fingerprint identification appropriation. The adjusted base funding for this appropriation is \$3,391,800 PR annually.

GOVERNOR

Fingerprint Card Record Check Fee. Increase the fingerprint card record check fee assessed to governmental agencies or nonprofit organizations, for purposes unrelated to criminal justice or to the waiting period for purchase of handguns, from the current \$10 per search to \$15 per search. The Governor estimates that the higher fingerprint card record check fee would generate additional revenues of \$62,000 in 2003-04 and \$82,700 in 2004-05.

\$5 Paper Copy Surcharge. Create a \$5 surcharge applicable to criminal history record checks and fingerprint card record checks, for purposes unrelated to criminal justice or to the waiting period for purchase of handguns, if the individual or organization requests a paper copy.

The Governor estimates that the \$5 paper copy surcharge would generate additional revenues of \$225,000 in 2003-04 and \$150,000 in 2004-05.

DISCUSSION POINTS

1. Currently under the bill, the increased revenues attributable to criminal history search fee changes have been incorrectly identified as GPR-Earned, rather than as program revenue. Consequently, a technical correction to the budget is required to accurately reflect these additional fee and surcharge amounts as PR. The fiscal impact of this required technical correction is to reduce GPR-Earned estimates in the bill by \$287,000 in 2003-04 and \$232,700 in 2004-05 and to provide corresponding PR-REV increases in each fiscal year.

2. These criminal history search fee revenues would be credited to the agency's criminal history searches and fingerprint identification appropriation. The Department uses criminal history search fee revenues to fund the criminal history search work of the Department, as well as to provide funding to support the automated fingerprint identification system (AFIS). AFIS provides for the electronic storage of fingerprints that are required to be submitted to the Department. The system permits law enforcement agencies to compare fingerprints against the system's database of electronically stored fingerprint records.

3. It is estimated that this appropriation will end the 2002-03 fiscal year with a balance of \$1,166,900 PR. In addition, without any changes to the current fee structure, it is estimated that this appropriation will end the 2003-05 biennium with a balance of \$968,800 PR. As a result, the fee increases do not appear to be necessary to support budgeted agency costs under the criminal history searches and fingerprint identification appropriation for the 2003-05 biennium.

4. While this appropriation is projected to end the biennium with a positive balance of \$968,800 PR, correction of the misclassification of the recommended criminal history fee and surcharge revenue increases as GPR-Earned will have the effect of reducing the amounts credited to the general fund by \$519,700 during the biennium. Thus, the Committee could consider lapsing \$519,700 PR in 2003-04 from the available balances in this appropriation in order to offset this reduction in GPR-Earned.

5. Following such a lapse, a balance of \$449,100 PR would remain in this appropriation at the end of the 2003-05 biennium, prior to accounting for the impact of the revenue increases from the fee and surcharge changes. As an additional alternative, the Committee could also consider lapsing to the general fund, the remaining balance of \$449,100 PR in unobligated balances in this appropriation in 2003-04.

6. Additionally, the Committee could consider approving both the fingerprint card fee increase and the \$5 paper copy surcharge, as recommended by the Governor. The Department indicates that the higher fingerprint card fee would permit it to fund the more complex and expensive process of fingerprint checks from fees charged for this service. The Department indicates that the new paper copy surcharge could permit it to operate more efficiently by

discouraging requests for paper copies. If these fee increases were approved and the additional amounts lapsed to the general fund, it is estimated that GPR-Earned amounts would increase by an additional \$287,000 in 2003-04 and \$232,700 in 2004-05.

7. Concerns could be raised regarding the possible reduction in balances in this appropriation during 2003-05, if the Committee were to adopt all of the above alternatives. Increasing the fee and surcharge amounts, however, will serve to increase the revenue stream available to support Department activities in future biennia.

8. Alternatively, the Committee could elect to forego one or more of the potential lapses identified above, in order to preserve positive balances in this appropriation into the 2005-07 biennium.

9. Under current law, the criminal history searches and fingerprint identification appropriation is a continuing appropriation. As a continuing appropriation, the Department has the authority to expend all available revenues, subject to the Department of Administration (DOA) allotment process.

10. If this appropriation were converted to an annual appropriation, the Department would no longer have the authority to expend all available revenues but would be limited to the amounts appropriated. Converting this appropriation to an annual appropriation would permit the Legislature to exercise greater control over the Department's expenditure of criminal history search fee revenues.

11. On the other hand, it should be noted that the agency has exercised discipline in the past regarding its expenditure of these revenues. As a result, the appropriation is projected to end the current biennium with a significant balance of \$1,166,900 PR. Accordingly, it could be argued that converting this appropriation to an annual appropriation is unnecessary.

ALTERNATIVES

1. Approve the Governor's recommendations to: (a) increase the \$10 fingerprint card record check fee assessed to governmental agencies or nonprofit organizations to \$15; and (b) create a \$5 paper copy surcharge applicable to criminal history record checks and fingerprint card record checks. Include a technical correction reducing GPR-Earned collections by \$287,000 in 2003-04 and \$232,700 in 2004-05 and providing corresponding PR-REV increases of \$287,000 in 2003-04 and \$232,700 in 2004-05.

<u>Alternative 1</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	- \$519,700	\$519,700

2. *Adopt Alternative 1*, and, in addition, lapse \$519,700 in 2003-04 to the general fund from the criminal history searches; fingerprint identification appropriation.

<u>Alternative 2</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$519,700

3. *Adopt Alternative 1*, and, in addition, lapse \$968,800 in 2003-04 to the general fund from the criminal history searches; fingerprint identification appropriation.

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$449,100	\$519,700

4. *Adopt Alternative 1*, and, in addition, lapse \$968,800 in 2003-04 to the general fund in available balances from the criminal history searches; fingerprint identification appropriation and lapse an additional \$287,000 in 2003-04 and \$232,700 in 2004-05 attributable to increased fee and surcharge revenue from this appropriation to the general fund.

<u>Alternative 4</u>	<u>GPR</u>	<u>PR</u>
2003-05 REVENUE (Change to Bill)	\$968,800	\$519,700

5. Delete provision.

<u>Alternative 5</u>	<u>GPR</u>
2003-05 REVENUE (Change to Bill)	- \$519,700

6. Provide that the criminal history searches; fingerprint identification appropriation be converted to an annual appropriation.

Prepared by: Paul Onsager