



## Legislative Fiscal Bureau

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May 30, 2007

Joint Committee on Finance

Paper #501

### **Penalty Surcharge Shortfall and Handgun Purchaser Record Check Fee (DOA -- Office of Justice Assistance, Corrections -- Adult Corrections, Justice, Public Defender, and Public Instruction)**

#### *Base Agency*

[LFB 2007-09 Budget Summary: Page 35, #6 (Part); Page 37, #2 (Part); Page 43, #8; Page 44, #10; Page 111, #13; Page 372, #7; Page 373, #8; Page 458, #5; Page 470, #14; and Page 479, #22]

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#### **CURRENT LAW**

*Penalty Surcharge.* Whenever a court imposes a fine or forfeiture for a violation of state law or municipal or county ordinance (except for violations involving smoking in restricted areas, failing to properly designate smoking or nonsmoking areas, nonmoving traffic violations or violations of safety belt use), the court also imposes a penalty surcharge of 26% of the total fine or forfeiture. Penalty surcharge revenues are allocated to appropriations in a number of state agencies to support specific program activities. It is estimated that the penalty surcharge fund will conclude the 2006-07 state fiscal year with a deficit totaling \$1,676,700 PR.

*Grants for Digital Recording of Custodial Interrogations by Law Enforcement Grant Program.* Under 2005 Wisconsin Act 60, the Legislature created the grants for digital recording of custodial interrogations by law enforcement grant program. The program is intended to provide grants to law enforcement agencies for equipment or training used to digitally record custodial interrogations of suspects. The program has \$750,000 PR annually in base grant funding supported by the penalty surcharge.

*Handgun Purchaser Record Check Program.* When a firearms dealer sells a handgun, the dealer may not transfer possession of that handgun until: (a) the dealer has inspected photographic identification from the purchaser; (b) the purchaser has completed a notification form with the purchaser's name, date of birth, gender, race and social security number so that the Department of Justice (DOJ) may perform an accurate record search; (c) the dealer has submitted

the information to DOJ and has requested a firearms restrictions record search; and (d) 48 hours have lapsed (subject to certain extensions) and DOJ has not notified the dealer that the transfer would be a violation of state or federal law. An \$8 fee is assessed on the dealer (who may pass the charge on to the purchaser) for each background check. The fee revenues are remitted to DOJ and are intended to fund the cost of operating the record check program. The program's 2006-07 budget is \$418,500 PR and 8.0 PR positions.

Since its creation under 1991 Wisconsin Act 11, the program has ended each state fiscal year in deficit. During 2005-06, the program received \$299,300 PR in record check fees but expended \$426,600 PR. At the end of the 2005-06, the program's cumulative deficit stood at \$1,180,300 PR, but with the benefit of a one-time transfer of \$351,400 PR in penalty surcharge funds in 2006-07, the program is projected to end the current fiscal year with a deficit of \$969,600 PR.

## GOVERNOR

*Increase the Amount of the Penalty Surcharge.* Increase the penalty surcharge from 26% to 27% of the total fine or forfeiture imposed for most violations of state law or municipal or county ordinance. The surcharge increase would first apply to offenses committed on the day after publication of the budget act. It is estimated that this increase would result in additional penalty surcharge revenues of \$755,200 PR in 2008-09.

*Increase the Amount of the Handgun Purchaser Record Check Fee.* Increase the handgun purchaser record check fee from \$8 to \$30, effective for firearms restrictions record searches requested on the day after publication of the budget act. It is estimated that this fee increase would generate additional revenue of \$704,000 PR annually.

*Appropriation Modifications and Handgun Purchaser Record Check Fees.* Rename DOJ's "penalty surcharge receipts" appropriation the "criminal justice program support" appropriation, and provide that penalty surcharge receipts and handgun purchaser record check fees would both be deposited to this receipts appropriation.

Eliminate the direct deposit of handgun purchaser record check fees to the handgun purchaser record check appropriation. Convert this appropriation from a continuing appropriation to an annual appropriation and provide that this appropriation be supported by revenues transferred from the "criminal justice program support" appropriation.

*Reduce Penalty Surcharge Funded Appropriations.* Generally reduce penalty surcharge funded appropriations in five different state agencies by 5% in 2007-08 (after standard budget adjustments). The funding reduction equals \$569,800 PR in 2007-08. Exempt the state and local law enforcement training fund appropriations under DOJ from this funding reduction.

*Grants for Digital Recording of Custodial Interrogations by Law Enforcement Grant Program.* Eliminate the grants for digital recording of custodial interrogations by law

enforcement program. Delete \$750,000 PR annually in base grant funding for the program and delete the statutory language governing the administration of the program.

## **DISCUSSION POINTS**

### **Penalty Surcharge Collections**

1. Based on the last 11 years of collection data (including an estimate of 2006-07 revenue collections), and netting out revenue increases associated with increases to the surcharge, the base revenue collections for the penalty surcharge have grown at an annual 1.5% rate during this period (excluding the high year and the low year). Under 2001 Wisconsin Act 16, which was the last act that increased the penalty surcharge prior to this biennium, the penalty surcharge increased from 23% to 24% of the underlying fine or forfeiture amount (or a 4.3% increase), and revenue increased over 4% for both years of the 2001-03 biennium.

2. Under 2005 Wisconsin Act 25, the penalty surcharge was increased from 24% to 25% of the underlying fine or forfeiture amount (a 4.2% increase). This increase took effect in late July, 2005. The provisions of 2005 Wisconsin Act 60 created the grants for digital recording of custodial interrogations by law enforcement grant program and increased the penalty surcharge from 25% to 26% of the underlying fine or forfeiture amount (a further 4.0% increase) to provide funding for this new grant program. The 26% penalty surcharge first applied to acts or omissions committed on or after December 31, 2005.

3. Despite these increases to the penalty surcharge and the historic growth in base penalty surcharge revenues, penalty surcharge revenues actually declined by 1.3% in 2005-06. Based on 10 months of revenue collections for 2006-07, penalty surcharge revenues are projected to increase by 2.2% over 2005-06 collections. As a result of low revenue collections, penalty surcharge funded appropriations are projected to end 2006-07, with a deficit of \$1,676,700 PR.

4. Penalty surcharge revenue collections can vary from year to year for a number of reasons including: (a) changes in the total number of convictions for civil violations under state law and municipal and county ordinances to which the surcharge applies; (b) changes in the number of criminal convictions; (c) the total amount of forfeitures assessed on state law and county and municipal ordinance violations; (d) the total amount of fines assessed to criminal defendants; (e) the ability of individuals to pay their court-ordered legal obligations; and (f) collection efforts by circuit and municipal courts.

5. The provisions of SB 40 would increase the penalty surcharge from 26% to 27% of the total fine or forfeiture imposed for most violations of state law or municipal or county ordinance. The surcharge increase would first apply to offenses committed on the day after publication of the budget act. Under the bill, it is estimated that the penalty surcharge increase would generate additional revenue of \$755,200 PR in 2008-09.

6. Based on an analysis of past collection data and collections through April, 2007, it is now estimated that the recommended increase in the surcharge from 26% to 27% will generate additional revenue of \$361,300 PR in 2007-08, and \$734,000 PR in 2008-09. For the 2007-09

biennium, this is \$340,100 PR above the amounts estimated under SB 40.

7. Under state law, program revenue accounts may not operate in deficit. Under s. 16.40(7) of the statutes, DOA is required to collect from any available source and correlate information concerning any and all anticipated state revenues, including program revenues. Under s. 16.513 of the statutes, if DOA projects that there are insufficient moneys, assets, or accounts receivable to cover expenditures under a program revenue appropriation(s), the affected agencies must propose and submit to DOA a plan to assure that there are sufficient moneys, assets, or accounts receivable to meet projected expenditures under the appropriation(s). Any such plan approved by DOA must be forwarded to the Joint Committee on Finance for its approval under 14-day passive review. If a deficit situation re-occurs in the criminal justice program support fund/penalty surcharge fund during 2007-09, it is anticipated that a plan will be forwarded to the Joint Committee on Finance to resolve the shortfall.

### **Grants for Digital Recording of Custodial Interrogations by Law Enforcement Grant Program**

8. On July 5, 2005, the Wisconsin Supreme Court held in *State v. Jerrell* that custodial interrogations of juveniles must be electronically recorded when feasible, and when the interrogation occurs in a place of detention, must be recorded without exception. In response to this decision, 2005 Wisconsin Act 60 created the grants for digital recording of custodial interrogations by law enforcement grant program. Under this program, the Department of Administration's Office of Justice Assistance (OJA) must provide grants to law enforcement agencies for the purchase, installation, or maintenance of digital recording equipment for making recordings of custodial interrogations or for training personnel to use such equipment.

9. All Wisconsin law enforcement agencies were given an opportunity to apply for initial grant funding under the program. The staff of OJA indicates that the funds were allocated by formula, with county sheriff's departments eligible for an additional \$5,000 for a video recording facility that would have to be made available to all law enforcement agencies in the county. Office staff indicates that it is not known whether all Wisconsin law enforcement agencies are in compliance with *State v. Jerrell*.

10. While Act 60 provided \$1,062,500 PR in penalty surcharge grant funding during 2005-07, it is estimated that \$5.5 million may be needed to fully fund digital recording equipment and training statewide. It should be noted that this estimate includes the projected costs for audio recorders for all field officers, but does not take into account life cycle replacement costs or long-term archiving costs.

11. The penalty surcharge fund is estimated to close 2006-07 with a deficit of \$1,676,700 PR, while the handgun hotline program is projected to close 2006-07 with a deficit of \$969,600 PR. Thus, for these two funds the cumulative deficit at the end of 2006-07 is estimated to be \$2,646,300 PR. Under SB 40, the Governor would create a new criminal justice program support fund supported by penalty surcharge revenues and handgun purchaser record check fees. It is estimated that under the provisions of SB 40 this criminal justice program support fund would end the 2007-09 biennium with a deficit of \$2,260,900 PR.

12. The only program that would be deleted under SB 40 would be the grants for digital recording of custodial interrogations by law enforcement grant program. If this program and its base funding of \$750,000 PR annually were to be restored by the Legislature, the criminal justice program support fund would end the 2007-09 biennium with a deficit of \$3,760,900 PR.

13. Department of Administration staff indicates that the grant program was deleted under the budget bill for reasons in addition to the financial implications to the criminal justice program support fund. First, OJA staff indicates that the program encountered problems in implementation. It indicates that guidance was lacking under Act 60 in regards to such issues as standardization of equipment, replacement schedules, storage requirements, and the sharing of recordings with other justice agencies, such as district attorney offices and the Office of the State Public Defender. Second, they indicate that prosecutors and assistant state public defenders have encountered problems in viewing and storing the digital evidence, as the evidence usually represents large digital files. Finally, DOA staff indicates that, "The intent in deleting the program is not to go away from this important mandate of recording custodial interrogations, but rather to take a closer look at what needs to be done to make this process most effective and usable for all partners in the criminal justice system."

14. Due to the projected deficits in the criminal justice program support fund/penalty surcharge fund, the Committee could consider adopting the Governor's recommendation to delete the digital recording grant program for law enforcement. The Committee could also consider deleting the grant program as a result of: (a) implementation concerns identified by OJA, and (b) initial grant funding to assist local law enforcement agencies that OJA was able to allocate during 2005-07.

15. Alternatively, the Committee could consider restoring the grant program as the *State v. Jerrell* decision created an ongoing requirement for local law enforcement agencies whose cost may be offset in whole or in part by the grant program.

### **Handgun Hotline Program**

16. Although DOJ has proposed a number of alternatives over the years, the handgun hotline program has never ended a state fiscal year without a deficit. The program is currently projected to end 2006-07, with a deficit of \$969,600 PR. In an effort to address deficits in both the penalty surcharge and handgun hotline funds, the provisions of SB 40 include an increase to the handgun purchaser record check fee from \$8 to \$30. Under SB 40, it is estimated that this fee increase would generate additional revenue of \$704,000 PR annually. Based on average receipts received by the handgun hotline over the last three completed state fiscal years, it is now estimated that this fee increase would generate additional revenue of \$768,100 PR annually, or \$64,100 PR above the amounts estimated under SB 40.

### **Criminal Justice Program Support Fund Under SB 40**

17. Under the provisions of the bill, the Governor would: (a) increase the amount of the penalty surcharge from 26% to 27% of the total fine or forfeiture imposed for most violations of state law or municipal or county ordinance; (b) increase the handgun purchaser record check fee

from \$8 to \$30; (c) generally reduce penalty surcharge funded appropriations in five different state agencies by 5% in 2007-08; (d) eliminate the grants for digital recording of custodial interrogations by law enforcement grant program; and (e) combine penalty surcharge revenues and handgun purchaser record check fees in a new criminal justice program support fund which would provide funding for both penalty surcharge funded appropriations as well as for the handgun hotline. Based on updated estimates of the closing balances for penalty surcharge funded appropriations and the handgun hotline for 2006-07, and based on updated estimates of revenues from the penalty surcharge and the handgun purchaser record check fee for 2007-09, Table 1 estimates the revenues, expenditures, and closing balances for the criminal justice program support fund under the provisions of the bill. The provisions of the bill would permit the state to reduce the deficit in the criminal justice program support fund from \$2,646,300 PR at the beginning of 2007-08, to \$2,260,900 PR at the conclusion of 2008-09.

**TABLE 1**

**Criminal Justice Program Support Fund Under SB 40, As Introduced**

<u>Appropriation</u>	<u>2007-08</u>	<u>2008-09</u>
Opening Balance	-\$2,646,300	-\$2,442,100
Penalty Surcharge Revenue	19,152,500	19,817,300
Handgun Hotline Revenue	<u>1,047,400</u>	<u>1,047,400</u>
Revenue Total	\$17,553,600	\$18,422,600
DPI -- Aid for alcohol and other drug abuse programs	\$1,442,700	\$1,518,600
DPI -- Alcohol and other drug abuse program	614,900	647,300
Corrections -- Victim services and programs	258,900	272,700
Corrections -- Correctional officer training	2,552,800	2,689,200
DOJ -- Law enforcement training fund, local assistance**	5,159,400	5,159,400
DOJ -- Law enforcement training fund, state operations**	3,702,600	3,702,600
DOJ -- Crime laboratory equipment and supplies	345,900	364,100
DOJ -- TIME System	932,600	982,000
DOJ -- Drug enforcement intelligence operations	1,593,600	1,680,300
DOJ -- Drug Crimes Enforcement; Local Grants	806,200	848,600
DOJ -- Reimbursement to counties for victim-witness services	841,000	885,300
DOA -- Justice info systems development	264,800	278,700
DOA -- Law enforcement program-administration	195,400	204,500
DOA -- Youth diversion program	753,900	794,900
DOA -- Grants for Digital Recording of Custodial Interrogations	0	0
SPD -- Conference and training	133,700	140,800
DOJ -- Handgun Hotline	<u>456,400</u>	<u>456,400</u>
Total Expenditures	\$19,854,300*	\$20,419,100*
Supplements & Reserves	\$141,400*	\$264,400*
Closing Balance	-\$2,442,100	-\$2,260,900

\* Expenditure estimates assume that 99% of requested expenditure authority will be utilized during each year of the 2007-09 biennium.

\*\* The DOJ appropriations providing reimbursements to state and local law enforcement agencies for law enforcement training would be exempted from the 5% across-the-board budget reduction in 2007-08, including administrative funding for the program.

18. The penalty surcharge appropriations identified in Table 1 provide funding for a wide variety of state functions.

- DPI—aid for alcohol and other drug abuse programs appropriation provides categorical aids for alcohol and other drug abuse programs.
- DPI—alcohol and other drug abuse program appropriation provides state administrative funding for the penalty surcharge funded alcohol and other drug abuse program.
- Corrections—victim services and programs appropriation provides funding for such services and programs provided by Corrections.
- Corrections—correctional officer training appropriation provides funding for correctional officer training.
- DOJ—law enforcement training fund, local assistance appropriation provides reimbursement funding to local law enforcement agencies for preparatory training and annual recertification training for local law enforcement officers.
- DOJ—law enforcement training fund, state operations appropriation provides administrative funding for the program as well as reimbursement funding to state law enforcement agencies for preparatory training and annual recertification training for state law enforcement officers.
- DOJ—crime laboratory equipment and supplies appropriation provides funding for the maintenance, repair, upgrading, and replacement costs of crime laboratory equipment, and for supplies used to maintain, repair, upgrade, and replace that equipment.
- DOJ—TIME System appropriation provides funding to DOJ to provide information technology services for the system which provides criminal history and other related law enforcement data to law enforcement agencies.
- DOJ—drug enforcement intelligence operations appropriation provides funding for drug enforcement tactical and strategic intelligence units.
- DOJ—drug crimes enforcement; local grants appropriation provides funding to local anti-drug task forces.
- DOJ—reimbursement to counties for victim-witness services appropriation provides reimbursement funding to counties to offset the cost of operating county victim/witness programs.
- DOA justice information systems development appropriation provides funding for district attorney information technology.
- DOA law enforcement program-administration appropriation provides state match funding to DOA's Office of Justice Assistance to administer federal grant programs. Under the bill, youth diversion administration funding would also be transferred to this appropriation.

- DOA—youth diversion program appropriation provides funding for youth diversion contracts to organizations generally specified in statute for the diversion of youths from gang activities into productive activities, including placement in appropriate educational, recreational, and employment programs.
- DOA—grants for digital recording of custodial interrogations appropriation provides grants to law enforcement agencies for the purchase, installation, or maintenance of digital recording equipment for making recordings of custodial interrogations or for training personnel to use such equipment.
- SPD—conference and training appropriation is utilized by the SPD to sponsor training and conferences for both staff attorneys and private bar attorneys who accept assignment of SPD cases.

### **Creating a Positive Fund Balance**

19. As program revenue accounts must be balanced under state law, the remainder of this paper provides information to permit the Committee to bring the funds in balance. The Committee may bring the funds in balance through revenue increases, across-the-board or other expenditure reductions, program deletions, transfer of program funding to other fund sources, one-time funding to address structural imbalances, or some combination of these approaches.

20. If the Committee chooses to re-create the penalty surcharge fund and the handgun hotline as separate funds, Table 2 reflects the penalty surcharge fund during 2007-09 prior to taking any action to increase revenues or decrease expenditures (including budget reductions and program deletions). Expenditure authority does, however, include standard budget adjustments. Without taking any action, the deficit in the penalty surcharge fund is estimated to increase to \$5,574,500 PR by the end of 2007-09.

**TABLE 2****Penalty Surcharge Fund Prior to Any Revenue Increases or Expenditure Reductions**

<u>Appropriation</u>	<u>2007-08</u>	<u>2008-09</u>
Opening Balance	-\$1,676,700	-\$3,717,500
Penalty Surcharge Revenue	<u>18,791,200</u>	<u>19,083,300</u>
Revenue Total	\$17,114,500	\$15,365,800
DPI -- Aid for alcohol and other drug abuse programs	\$1,518,600	\$1,518,600
DPI -- Alcohol and other drug abuse program	647,300	647,300
Corrections -- Victim services and programs	272,700	272,700
Corrections -- Correctional officer training	2,689,200	2,689,200
DOJ -- Law enforcement training fund, local assistance	5,159,400	5,159,400
DOJ -- Law enforcement training fund, state operations	3,702,600	3,702,600
DOJ -- Crime laboratory equipment and supplies	364,100	364,100
DOJ -- Transaction Information Management of Enforcement System	982,000	982,000
DOJ -- Drug enforcement intelligence operations	1,679,500	1,680,300
DOJ -- Drug Crimes Enforcement; Local Grants	848,600	848,600
DOJ -- Reimbursement to counties for victim-witness services	885,300	885,300
DOA -- Justice info systems development, operation and maintenance	278,700	278,700
DOA -- Law enforcement program-administration	204,500	204,500
DOA -- Youth diversion program	794,900	794,900
DOA -- Grants for Digital Recording of Custodial Interrogations	750,000	750,000
SPD -- Conference and training	140,800	140,800
SPD -- Conference and training	<u>140,800</u>	<u>140,800</u>
Total Expenditures	\$20,709,000*	\$20,709,800*
Supplements & Reserves	\$123,000*	\$230,500*
Closing Balance	-\$3,717,500	-\$5,574,500

\*Expenditure estimates assume that 99% of requested expenditure authority will be utilized during each year of the 2007-09 biennium.

21. Table 3 reflects the revenue that it is estimated could be generated if the penalty surcharge were increased by varying amounts up to seven percentage points.

**TABLE 3****Estimated Revenue from Penalty Surcharge Increase (Currently 26%)**

<u>Surcharge Increase</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Biennial Total</u>
1% (SB 40)	\$361,300	\$734,000	\$1,095,300
2	722,600	1,468,000	2,190,600
3	1,083,900	2,202,000	3,285,900
4	1,445,200	2,936,000	4,381,200
5	1,806,500	3,670,000	5,476,500
6	2,167,800	4,404,000	6,571,800
7	2,529,100	5,138,000	7,667,100

22. Table 4 reflects the value of reduced expenditure authority if an across-the-board reduction were applied to all penalty surcharge funded appropriations and associated supplement and reserve amounts. The amount of the across-the-board reduction reflected in the table ranges from 1% to 20%. For a 10% across-the-board reduction, for example, expenditure authority would be reduced by \$4,219,400 PR during 2007-09.

**TABLE 4****Value of Expenditure Reductions to the Penalty Surcharge Fund**

<u>% Reductions</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Biennial Total</u>
1%	\$210,400	\$211,500	\$421,900
2	420,800	423,000	843,800
3	631,300	634,600	1,265,900
4	841,700	846,100	1,687,800
5	1,052,100	1,057,600	2,109,700
6	1,262,500	1,269,100	2,531,600
7	1,473,000	1,480,600	2,953,600
8	1,683,400	1,692,100	3,375,500
9	1,893,800	1,903,700	3,797,500
10	2,104,200	2,115,200	4,219,400
11	2,314,700	2,326,700	4,641,400
12	2,525,100	2,538,200	5,063,300
13	2,735,500	2,749,700	5,485,200
14	2,945,900	2,961,300	5,907,200
15	3,156,400	3,172,800	6,329,200
16	3,366,800	3,384,300	6,751,100
17	3,577,200	3,595,800	7,173,000
18	3,787,600	3,807,300	7,594,900
19	3,998,100	4,018,800	8,016,900
20	4,208,500	4,230,400	8,438,900

23. Table 5 reflects the handgun hotline during 2007-09 prior to taking any action to increase revenue or decrease expenditures. Without taking any action, the deficit in the handgun hotline program is estimated to increase to \$1,367,300 PR by the end of 2007-09.

**TABLE 5**

**Handgun Hotline Prior to Any Revenue Increases or Expenditure Reductions**

<u>Item</u>	<u>2007-08</u>	<u>2008-09</u>
Opening Balance	-\$969,600	-\$1,160,500
Base Revenue	<u>279,300</u>	<u>279,300</u>
Revenue Total	-\$690,300	-\$881,200
Expenditures	\$451,800*	\$451,800*
Supplements & Reserve	\$18,400*	\$34,300*
Closing Balance	-\$1,160,500	-\$1,367,300

\*Expenditure estimates assume that 99% of requested expenditure authority will be utilized during each year of the 2007-09 biennium.

24. Table 6 reflects the revenue that could be generated if the handgun purchaser record check fee was increased anywhere from \$1 to \$25. Under the bill, the fee was increased \$22, from \$8 to \$30.

**TABLE 6**

**Estimated Revenue from Handgun Purchaser Record Check Fee Increase**

<u>Fee Increase</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Biennial Total</u>
\$1	\$34,900	\$34,900	\$69,800
2	69,800	69,800	139,600
3	104,700	104,700	209,400
4	139,700	139,700	279,400
5	174,600	174,600	349,200
6	209,500	209,500	419,000
7	244,400	244,400	488,800
8	279,300	279,300	558,600
9	314,200	314,200	628,400
10	349,100	349,100	698,200
11	384,000	384,000	768,000
12	419,000	419,000	838,000
13	453,900	453,900	907,800
14	488,800	488,800	977,600
15	523,700	523,700	1,047,400

<u>Fee Increase</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Biennial Total</u>
\$16	\$558,600	\$558,600	\$1,117,200
17	593,500	593,500	1,187,000
18	628,400	628,400	1,256,800
19	663,300	663,300	1,326,600
20	698,300	698,300	1,396,600
21	733,200	733,200	1,466,400
22 (SB 40)	768,100	768,100	1,536,200
23	803,000	803,000	1,606,000
24	837,900	837,900	1,675,800
25	872,800	872,800	1,745,600

25. Table 7 reflects the value of reduced expenditure authority if a reduction were applied to the handgun hotline program. The amount of the reduction reflected in the table ranges from 1% to 20%. For a 10% reduction, for example, expenditure authority would be reduced by \$96,600 PR during 2007-09. It may be worth noting that the handgun hotline program is a small program with 8.0 positions. It may, therefore, be difficult for the program to sustain a reduction and maintain required service to handgun dealers to conduct background checks.

**TABLE 7**

**Value of Reductions to the Handgun Hotline Program**

<u>% Reductions</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Biennial Total</u>
1%	\$4,800	\$4,900	\$9,700
2	9,500	9,800	19,300
3	14,300	14,700	29,000
4	19,000	19,600	38,600
5	23,800	24,500	48,300
6	28,500	29,400	57,900
7	33,300	34,300	67,600
8	38,000	39,300	77,300
9	42,800	44,200	87,000
10	47,500	49,100	96,600
11	52,300	54,000	106,300
12	57,000	58,900	115,900
13	61,800	63,800	125,600
14	66,500	68,700	135,200
15	71,300	73,600	144,900
16	76,000	78,500	154,500
17	80,800	83,400	164,200
18	85,500	88,300	173,800
19	90,300	93,200	183,500
20	95,000	98,100	193,100

26. Table 8 reflects the criminal justice program support fund (created in SB 40) during 2007-09 prior to taking any action to increase revenues or decrease expenditures (including across-the-board budget reductions and program deletions). Without taking any action, the deficit in the consolidated fund is estimate to increase to \$4,316,000 PR by the end of 2007-09.

**TABLE 8**

**Criminal Justice Fund Prior to Any Revenue Increases or Expenditure Reductions**

<u>Appropriation</u>	<u>2007-08</u>	<u>2008-09</u>
Opening Balance	-\$2,646,300	-\$4,878,100
Penalty Surcharge Revenue	18,791,200	19,083,300
Handgun Hotline Revenue	<u>279,300</u>	<u>279,300</u>
Revenue Total	\$16,424,200	\$14,484,500
DPI -- Aid for alcohol and other drug abuse programs	\$1,518,600	\$1,518,600
DPI -- Alcohol and other drug abuse program	647,300	647,300
Corrections -- Victim services and programs	272,700	272,700
Corrections -- Correctional officer training	2,689,200	2,689,200
DOJ -- Law enforcement training fund, local assistance	5,159,400	5,159,400
DOJ -- Law enforcement training fund, state operations	3,702,600	3,702,600
DOJ -- Crime laboratory equipment and supplies	364,100	364,100
DOJ -- Transaction Information Management of Enforcement System	982,000	982,000
DOJ -- Drug enforcement intelligence operations	1,679,500	1,680,300
DOJ -- Drug Crimes Enforcement; Local Grants	848,600	848,600
DOJ -- Reimbursement to counties for victim-witness services	885,300	885,300
DOA -- Justice info systems development, operation and maintenance	278,700	278,700
DOA -- Law enforcement program-administration	204,500	204,500
DOA -- Youth diversion program	794,900	794,900
DOA -- Grants for Digital Recording of Custodial Interrogations	750,000	750,000
SPD -- Conference and training	140,800	140,800
DOJ -- Handgun Hotline	<u>456,400</u>	<u>456,400</u>
Total Expenditures	\$21,160,900*	\$21,161,600*
Supplements & Reserves	\$141,400*	\$264,400*
Closing Balance	-\$4,878,100	-\$6,941,500

\*Expenditure estimates assume that 99% of requested expenditure authority will be utilized during each year of the 2007-09 biennium.

27. Tables 3 and 6 provide information on the estimated revenue that could be generated to address the deficit in the fund if either the penalty surcharge, the handgun purchaser record check fee, or both were increased.

28. Table 9 reflects the value of reduced expenditure authority if an across-the-board reduction were applied to all criminal justice program support fund appropriations and associated supplement and reserve amounts. The amount of the across-the-board reduction reflected in the

table ranges from 1% to 20%. For a 10% across-the-board reduction, for example, expenditure authority would be reduced by \$4,316,000 PR during 2007-09.

**TABLE 9**

**Value of Across-the-Board Expenditure Reductions  
to the Criminal Justice Program Support Fund**

<u>% Reductions</u>	<u>2007-08</u>	<u>2008-09</u>	<u>Biennial Total</u>
1%	\$215,200	\$216,400	\$431,600
2	430,300	432,900	863,200
3	645,500	649,300	1,294,800
4	860,700	865,700	1,726,400
5	1,075,900	1,082,100	2,158,000
6	1,291,000	1,298,600	2,589,600
7	1,506,200	1,515,000	3,021,200
8	1,721,400	1,731,400	3,452,800
9	1,936,600	1,947,800	3,884,400
10	2,151,700	2,164,300	4,316,000
11	2,366,900	2,380,700	4,747,600
12	2,582,100	2,597,100	5,179,200
13	2,797,300	2,813,500	5,610,800
14	3,012,400	3,030,000	6,042,400
15	3,227,600	3,246,400	6,474,000
16	3,442,800	3,462,800	6,905,600
17	3,658,000	3,679,200	7,337,200
18	3,873,100	3,895,700	7,768,800
19	4,088,300	4,112,100	8,200,400
20	4,303,500	4,328,500	8,632,000

29. The youth diversion program appropriation, whether it remains under Corrections as under current law or transfers to OJA, provides contract funding totaling \$820,000 PR annually in penalty surcharge funds in six awards to organizations that provide gang diversion services. The statutes specify how the \$820,000 PR in annual funding much be distributed to these organizations. For any alternative providing less than \$820,000 PR annually in funding for these grants, nonstatutory language will be required to direct the administering agency to proportionately reduce the mandated grant award amounts to these organizations funded from penalty surcharge revenues during the 2007-09 biennium.

**SUMMARY**

30. Under SB 40, the administration recommends combining the penalty surcharge fund and the handgun hotline program to create a new criminal justice program support fund. The

administration contends that both funds support criminal justice functions and that combining the funds would mitigate the effects of downturns in revenue collections under either of the fees. On the other hand, the handgun purchaser record check fee is collected for the narrow purpose of funding background checks prior to the transfer of handguns, and some could argue that it would be inappropriate to increase the handgun purchaser record check fee and utilize the increased fee revenue to support other state activities.

31. Under SB 40, as introduced, the criminal justice program support fund would end the 2007-09 biennium with an estimated shortfall of \$2,260,900 PR (Table 1). Prior to any revenue increases or expenditure reductions, it is estimated that the criminal justice program support fund would end the biennium with a shortfall of \$6,941,500 PR (Table 8).

32. If the Committee recreates a separate penalty surcharge fund, prior to any revenue increases or expenditure reductions the penalty surcharge fund is estimated to end the 2007-09 biennium with a shortfall of \$5,574,500 PR (Table 2). Further, prior to any revenue increases or expenditure reductions the handgun hotline is projected to end the biennium with a shortfall of \$1,367,300 PR (Table 5).

33. Program revenue accounts must be balanced under state law. The Committee has a number of alternatives to review when considering how it wishes to balance the funds. The Committee may bring the funds in balance through revenue increases, across-the-board or other expenditure reductions, program deletions, transfer of program funding to other fund sources, one-time funding to address structural imbalances, or some combination of these approaches.

## **ALTERNATIVES TO BASE**

If the Committee elects to support the criminal justice support fund as proposed in SB 40, Tables 3 and 6 of the paper provide information on estimated revenue under changes to the penalty surcharge and the handgun purchaser record check fee, while Table 9 provides information on the value of across-the-board expenditure reductions to the fund. The Committee may consider the transfer of district attorney information technology expenditures to the justice information system fee as discussed in a separate budget paper on district attorney information technology under DOA-IT.

The Committee may consider the transfer of TIME System expenditures back to the general fund. Prior to the enactment of the 2005-07 budget, the TIME System (which provides information, such as criminal history record information, to state and local law enforcement) was supported by GPR and law enforcement fees. Under the 2005-07 budget the Governor recommended converting the TIME System GPR appropriation to the transportation fund. The Legislature amended the Governor's recommendation by converting the TIME System GPR appropriation to the penalty surcharge fund.

If the Committee elects to re-create the penalty surcharge fund and the handgun hotline program as separate funds, Table 3 provides information on estimated revenue from increases to the penalty surcharge, while Table 4 provides information on the value of across-the-board expenditure

reductions to the fund. Table 6 provides information on estimated revenue from increases to the handgun purchaser record check fee, while Table 7 provides information on the value of reductions to the handgun hotline program.

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