



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #124

Justice Information System Surcharge -- District Attorney Information Technology (DOA -- General Agency Provisions and Office of Justice Assistance)

[LFB 2009-11 Budget Summary: Page 34, #10 and Page 52, #3]

CURRENT LAW

Base funding for District Attorney Information Technology (DA IT) is \$4,499,500 PR and 16.2 PR positions annually, including \$3,767,000 PR and 16.2 PR positions annually funded from the justice information system fee and \$732,500 PR annually from federal Justice Assistance Grants (Byrne anti-drug grant program).

A portion of the costs of DA IT is funded from the justice information surcharge. The Department of Administration (DOA) receives \$5 of a \$12 justice information surcharge that is assessed upon the commencement of certain civil court proceedings. The penalty surcharge (26% of the fine or forfeiture amount) is imposed by the courts for violations of state laws or municipal or county ordinances, and utilized for multiple state purposes including DA IT.

Under current law, the \$12 justice information system surcharge is generally assessed with a court fee for the commencement or filing of certain court proceedings, including civil, small claims, forfeiture, wage earner, or garnishment actions, an appeal from municipal court, third party complaint in a civil action, or for filing a counterclaim or cross complaint in a small claims action. Of the \$12 surcharge, \$5 (five-twelfths) is allocated to DOA for justice information systems, \$6 (one-half) is allocated for circuit court automation program (CCAP), and \$1 is credited to the general fund.

GOVERNOR

Provide \$1,052,200 PR annually from amounts received from the justice information

surcharge to fund the following: (a) replacement of federal Justice Assistance Grants (\$362,200 PR); (b) increasing bandwidth (\$100,000 PR); (c) providing on-line research tools (\$170,000 PR); (d) providing remote access for computers (\$200,000 PR); (e) increased electronic storage (\$100,000 PR); and (f) business analysis of statewide information technology needs for district attorney offices (\$120,000 PR).

Increase the justice information system surcharge by a total of \$6 to \$18. Provide that DOA receive an additional \$2.50, or \$7.50 in total, from each assessed surcharge for justice information systems (instead of \$5 from each assessed surcharge under current law).

DISCUSSION POINTS

1. Under current law, the state provides funding and staff for computer automation in district attorney offices statewide including the development of a Prosecutor Technology for Case Tracking (PROTECT) case management system, and the development of integrated justice information systems shared by DAs, the courts, law enforcement, and other justice agencies.

2. Base funding for District Attorney Information Technology (DA IT) is \$4,499,500 PR and 16.2 PR positions annually, including \$3,767,000 PR and 16.2 PR positions annually funded from the justice information system fee and \$732,500 PR annually from federal Byrne anti-drug grant program (Justice Assistance Grants).

3. The Governor's recommendation would increase the total appropriation authority to \$5,333,700 PR and 16.2 positions annually including \$4,608,500 PR and 16.2 PR positions annually funded from the justice information system fee and \$732,500 PR annually from Justice Assistance Grants.

Revenue

4. The justice information system fee must be paid for any filing for civil, small claims, forfeiture, wage earner, or garnishment actions, or for an appeal from municipal court, third party complaint in a civil action, or for a filing of a counterclaim or cross complaint in a small claims action. The fee is currently \$12, of which \$5 is paid to DOA for justice information systems. Under the bill, the fee would increase to \$18, of which \$7.50 would be paid to DOA for justice information systems.

5. The Department estimates that \$680,000 is generated from each \$1 of the fee. It is, therefore, estimated that the total revenues received by DOA would increase from \$3,400,000 to \$5,100,000 annually. It is also estimated that there will be a balance of \$1,475,800 PR at the end of the 2008-09 year. Table 1 shows the estimated revenues and expenditures under the bill. It is estimated that DOA would have sufficient revenues to expend the amounts authorized under AB 75.

TABLE 1

**Justice Information System Fees -- AB 75
(\$7.50 Justice Information Fee for DA IT)**

	<u>2009-10</u>	<u>2010-11</u>
Beginning Balance	\$1,475,800	\$1,967,300
Estimated Revenue	<u>5,100,000</u>	<u>5,100,000</u>
Total Revenue	\$6,575,800	\$7,067,300
Expenditure Authority		
Base Funding	\$3,767,000	\$3,767,000
District Attorney IT Initiatives	1,052,200	1,052,200
Standard Budget Adjustments	-173,000	-173,000
1% Across-the-Board Reductions	<u>- 37,700</u>	<u>- 37,700</u>
	\$4,608,500	\$4,608,500
Year End Balance	\$1,967,300	\$2,458,800

6. Based on the opening balances and projected ending balance for 2010-11, the Committee could choose to reduce the justice information fee by \$1 (from the recommended \$7.50 to \$6.50), which would result in the following estimated balances. [Alternative H1]

TABLE 2

**Justice Information System Fees -- AB 75
(\$6.50 Justice Information Fee for DA IT)**

	<u>2009-10</u>	<u>2010-11</u>
Beginning Balance	\$1,475,800	\$947,300
Estimated Revenue	<u>4,080,000</u>	<u>4,080,000</u>
Total Revenue	\$5,555,800	\$5,027,300
Expenditure Authority		
Base Funding	\$3,767,000	\$3,767,000
District Attorney IT Initiatives	1,052,200	1,052,200
Standard Budget Adjustments	-173,000	-173,000
1% Across-the-Board Reductions	<u>- 37,700</u>	<u>- 37,700</u>
	\$4,608,500	\$4,608,500
Year End Balance	\$947,300	\$418,800

7. While a fee of \$6.50 would provide sufficient funding for all of the proposed activities in the 2009-11 biennium, the annual appropriation authority would be greater than annual revenue and would, therefore, not be sufficient to fund a similar level of appropriations in future biennia.

Justice Assistance Grant Funding

8. The Department indicates that of the amount provided under AB 75, \$362,200 PR annually would be used to offset potential reductions to in federal Byrne anti-drug (Justice Assistance Grant) grant program funding, which is currently budgeted at \$732,500 PR annually.

9. Under AB 75, the program revenue appropriation in DOA that receives Byrne revenues transferred from the Office of Justice Assistance is not reduced based upon the recommended modification. If the Committee approves the Governor's recommendation to increase the amounts provided from the justice information fee appropriation under DOA, the Committee may wish to reduce the amounts appropriated for DA IT from the Byrne grant appropriation by \$362,200 PR annually. [Alternative B1]

10. In support of the proposal to replace federal funding, it could be argued that federal Justice Assistance Grant funding may fluctuate in the future and it is unlikely that there will be future federal stimulus funds in this area. As a result, ongoing programs should be supported with a permanent revenue source. The administration also states that it is appropriate to use justice information fees for DA IT programs because the program's relationship to an efficient and effective criminal justice system.

11. On the other hand, it is estimated that the Office of Justice Assistance will receive an additional \$18,843,600 of Justice Assistance Grant funding in the 2009-11 biennium.

12. Currently, individuals must pay the justice information fee before they can file civil, small claims, forfeiture, wage earner, or garnishment actions, or for an appeal from municipal court, third party complaints in civil action, or for filing a counterclaim or cross complaint in a small claims action. For those of lesser means, justice information fees may represent an obstacle to filing a legal claim. It could be argued that Justice Assistance Grant should be used to support ongoing programs, where funds are available, rather than increasing the justice information fee.

13. The Committee may consider whether any amount approved under the bill for DA IT should, instead, be supported from Justice Assistance Grants and whether DA IT programs on an ongoing basis should be supported from these funds before discretionary funds are provided by the Office of Justice Assistance for other purposes.

14. If the Committee wishes to reduce the amounts appropriated from justice information fees, specifying that funding be provided from the Justice Assistance Grant rather than justice information fees, then justice information fees could be reduced by a corresponding amount. [These alternatives are identified in Alternatives B2, C1, D1, E1, F1, and G3.] Each \$100,000 reduction to amounts appropriated from justice information fees would correspond to an

approximate \$0.15 reduction to the fee. If any of the Governor's recommendations are eliminated, the proposed fee increase may be adjusted downward by a corresponding amount. [These alternatives are identified in Alternatives B3, C2, D2, E2, F2, and G4.]

New Program Funding Under AB 75

15. Under AB 75, DA IT would support four new, on-going expenditure items: (a) increased telecommunications bandwidth; (b) on-line research tools; (c) remote access for district attorney staff; and (d) data storage.

16. The Department states that it would like to move 57 current DA IT connections from a transmission speed of 512k to a T1 telecommunications line. This increased speed would require an increase in telecommunications bandwidth and cost an additional \$150 per month per connection. The Department has allocated \$100,000 PR annually for these costs.

17. Second, \$170,000 PR annually would be provided under the bill for on-line search tools (Westlaw, Loislaw, and Time and Access Systems). The Department states that DOA was previously allowed to set up concurrent use of the Westlaw on-line research tool, which allowed for a single license per office. Under the new contract, however, the state is required to purchase licenses for each user (about 440 licenses for prosecutor offices).

18. Third, \$200,000 PR annually would be provided under the bill for remote access, which would allow internet and office connectivity outside of the office utilizing secure wireless access. The Department indicates that it is seeking Justice Assistance Grant funding for infrastructure and mobile devices for district attorneys. The state funding provided under the bill would be used for ongoing support and maintenance of this system.

19. The remote access would allow district attorney staff access to work data at courthouses and other places where wireless connectivity is available, which could increase the productivity of DA offices. Alternatively, providing this service would have long-term costs to the state. While Justice Assistance Grant funds may be available for start-up infrastructure costs, there would be ongoing costs related to maintenance and information technology support (\$200,000 PR annually). In addition, it is likely that the state would have to pay for upkeep and eventual replacement of the infrastructure.

20. Additionally, there are remote access security concerns mainly related to ensuring that private case records would not be compromised either through interception of a wireless signal or physical loss of the equipment. The Department indicates that access would be provided through a Virtual Private Network (VPN), which would encrypt information as it travel across the Internet. The Department would also install data-at-rest [software that requires password re-entry if computer is not used for a specified period] on laptops to protect data on laptops that could be loss or stolen. However, some risks would remain, especially given the relatively large number of DA staff users who would have to ensure that firewalls are maintained even if VPN's are used to move information to and from personal computers and mainframes.

21. The Legislature could also choose to delete this funding until the Department secures funding for remote access and provides a plan to the Joint Committee on Finance that shows the following: (a) the amount of federal funding that would be provided for remote access; (b) the number of DA staff members that would be provided with remote access; (c) the type of remote access that would be provided (whether wireless access would be provided); and (d) the security protocols that would be used (the security requirements that would be placed upon remote access users). Funding could be released under a 14-day passive review process of the Joint Committee on Finance. [Alternative E3]

22. Fourth, \$100,000 PR annually would be provided under the bill for data storage. The Department indicates that there has been an "exponential increase" in data storage needs, indicating that much of the data that used to be handled in non-computer storage format, such as photos, referrals from law enforcement, and video tape, are now received electronically. The Department states that this digital information can be attached to the district attorney case management system.

23. Traditionally, the state has funded costs of prosecutors' salaries and fringe benefits. Through DOA, the state has also provided funding and staff for computer automation in district attorney offices, including the case management system and the integrated justice information systems shared by district attorneys, the courts, law enforcement, and other justice agencies.

24. The Department has nearly completed integrating counties into the case management system, and continues to fund ongoing administration and information technology assistance for district attorney offices. However, the movement of information that has been traditionally stored as hard copies, to an electronic storage method, could be seen as a shift in costs from the counties to the state. It could be argued that it has not traditionally been the state government's obligation to provide record storage, and that even in the electronic format these costs should remain the obligation of the counties.

25. Alternatively, the ability of district attorneys to retain electronic records and electronically transmit these records to other DA offices and justice agencies could be a benefit to the state and since the state has committed to providing information technology services to DA offices; it could be argued that this is an appropriate extension of that service.

Business Analysis

26. The bill would provide \$120,000 PR annually for an assessment of how data from the case management system can be used to review prosecutor staffing and identify trends in criminal behavior by county, regionally, and statewide. The Department indicates that a business analyst would meet with various groups to determine what types of reports would be needed by groups such as the Wisconsin District Attorneys Association, individual district attorney offices, the State Prosecutors Office, the Legislative Audit Bureau (LAB), the Office of Justice Assistance, and the Department of Justice. Based on this business analysis, implementation of state-wide statistics could be implemented in the 2011-13 biennium.

27. In a July, 2007, audit of state prosecutor positions, LAB noted that there is considerable variation by county in how the case management system is used and in order to obtain useful information that variation would have to be reduced. It was also noted that a few counties have not been added to the system. Racine and Milwaukee counties are scheduled to be completed by the end of this fiscal year. Iron, Vernon, and Portage Counties will not be completed at the end of the current biennium. It could be argued that data collection analysis should be postponed until the case management system is completed by all counties.

28. If the Committee wishes to proceed with the study, it may address the issue of data uniformity. Since statistical analysis of non uniform data would have limited value to decision-makers, the Committee could require the Department, as part of this analysis, to provide a report to the Governor and the Legislature regarding a means of standardizing data entry for case management system users. This report could be required for the earlier of: (a) June 30, 2011; or (b) in conjunction with any additional request or proposal of the agency or the Governor to carry out recommendations of the study. [Alternative G2]

29. Since this funding would be one-time in purpose, the Committee could provide this funding as one-time funding rather than under ongoing supplies and services. This funding would then be removed under standard budget adjustments as part of the 2011-13 biennial budget for DA IT. [Alternative G1]

ALTERNATIVES

A. Governor's Recommendation

1. Approve the Governor's recommendation to provide \$1,052,200 PR annually from amounts received from the justice information surcharge to fund the following: (a) replacement of federal Justice Assistance Grants (\$362,200 PR); (b) increasing bandwidth (\$100,000 PR); (c) providing on-line research tools (\$170,000 PR); (d) providing remote access for computers (\$200,000 PR); (e) increased electronic storage (\$100,000 PR); and (f) business analysis of statewide information technology needs for district attorney offices (\$120,000 PR).

2. Delete provision.

ALT A2	Change to Bill	
	Revenue	Funding
PR	-\$3,400,000	-\$2,104,400

B. Replacement of Justice Assistance Grants

1. Delete \$362,200 PR annually from the Byrne funded justice information system

appropriation to offset the increased support from justice information fees.

ALT B1	Change to Bill	
	Funding	
PR	- \$724,400	

2. Modify the Governor's recommendation by providing funding from Justice Assistance Grants rather than justice information fees and reduce fees by \$0.50 compared to the Governor's recommendation.

ALT B2	Change to Bill	
	Revenue	Funding
PR	- \$680,000	- \$724,400

3. Delete the Governor's recommendation and reduce fees by \$0.50 compared to the Governor's recommendation.

ALT B3	Change to Bill	
	Revenue	Funding
PR	- \$680,000	- \$724,400

C. Bandwidth

1. Modify the Governor's recommendation by providing funding from Justice Assistance Grants rather than justice information fees and reduce fees by \$0.15 compared to the Governor's recommendation.

ALT C1	Change to Bill	
	Revenue	
PR	- \$204,000	

2. Delete the Governor's recommendation and reduce fees by \$0.15 compared to the Governor's recommendation.

ALT C2	Change to Bill	
	Revenue	Funding
PR	- \$204,000	- \$200,000

D. On-Line Research Tools

1. Modify the Governor's recommendation by providing funding from Justice

Assistance Grants rather than justice information fees and reduce fees by \$0.25 compared to the Governor's recommendation.

ALT D1	Change to Bill	
	Revenue	Funding
PR	-\$340,000	\$0

2. Delete the Governor's recommendation and reduce fees by \$0.25 compared to the Governor's recommendation.

ALT D2	Change to Bill	
	Revenue	Funding
PR	-\$680,000	-\$724,400

E. Remote Access

1. Modify the Governor's recommendation by providing funding from Justice Assistance Grants rather than justice information fees and reduce fees by \$0.30 compared to the Governor's recommendation.

ALT E1	Change to Bill	
	Revenue	
PR	-\$408,000	

2. Delete the Governor's recommendation and reduce fees by \$0.30 compared to the Governor's recommendation.

ALT E2	Change to Bill	
	Revenue	Funding
PR	-\$408,000	-\$400,000

3. In addition to Alternative E2, allow the Department to request up to \$200,000 PR annually for ongoing support and maintenance of remote access for District Attorney Offices, under a 14-day passive review process of the Joint Committee on Finance. Specify that the following information would be provided: (a) the amount of federal funding that would be provided for remote access; (b) the number of district attorney staff members that would be provided with remote access; (c) the type of remote access that would be provided; and (d) the security protocols that would be used.

F. Electronic Storage

1. Modify the Governor's recommendation by providing funding from Justice Assistance Grants rather than justice information fees and reduce fees by \$0.15 compared to the Governor's recommendation.

ALT F1	Change to Bill
	Revenue
PR	- \$204,000

2. Delete the Governor's recommendation and reduce fees by \$0.15 compared to the Governor's recommendation.

ALT F2	Change to Bill	
	Revenue	Funding
PR	- \$204,000	- \$200,000

G. Business Analysis

1. Modify the Governor's recommendation by providing \$120,000 PR annually for conducting a needs assessment as one-time funding rather than supplies and services.

2. Require the Department of Administration, in conjunction with the District Attorneys Association, to develop administrative rules for entry of data into the Prosecutor Technology for Case Tracking system. Specify that the administrative rules would establish a standard format for data entry and that data would separately show the type of case and the amount of hours spent by district attorneys, assistant district attorneys, and support staff on each case. Specify that these administrative rules would be completed, and implemented in district attorney offices, by July 1, 2010.

3. Modify the Governor's recommendation by providing funding from Justice Assistance Grants rather than justice information fees and reduce fees by \$0.15 compared to the Governor's recommendation.

ALT G3	Change to Bill
	Revenue
PR	- \$204,000

4. Delete the Governor's recommendation and reduce fees by \$0.15 compared to the Governor's recommendation.

ALT G4	Change to Bill	
	Revenue	Funding
PR	- \$204,000	- \$240,000

H. Fee Revenue Projections

- 1. Modify the Governor's recommendation by reducing the justice information fee by \$1.

ALT H1	Change to Bill	
	Revenue	
PR	- \$1,360,000	

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