Legislative Fiscal Bureau

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Criminal History Search Fees (Justice)

[LFB 2011-13 Budget Summary: Page 270, #1, Page 271, #3, and Page 274, #9]

CURRENT LAW

Criminal history search fees are permitted to be assessed on non-criminal justice related searches of the criminal history database, typically made in connection with employment or professional licensing applications. Nonprofit organizations and governmental agencies pay $7 per request, while other requesters pay $13 per request. Effective July 1, 2011, the fee charged to nonprofit organizations will revert to $2. [Prior to 2009 Act 28, nonprofit organizations paid $2 per request for non-criminal justice related requests for criminal record name searches.]

Criminal history search fees are deposited to the PR continuing criminal history searches; fingerprint identification appropriation to cover costs associated with providing criminal history search information, including the maintenance and periodic upgrade of the automated fingerprint identification system (AFIS) and the criminal history database. The computerized criminal history database contains detailed information of arrests, arrest charges, prosecution, court findings and sentences, and state correctional system admissions and releases that are required to be submitted to the Department of Justice (DOJ). All information in the database is linked to specific fingerprint records submitted by arresting law enforcement agencies and stored in AFIS. The adjusted base of the PR continuing criminal history searches; fingerprint identification appropriation is $5,251,600 PR and 32.0 PR positions.

GOVERNOR

Specify that all nonprofit organizations be charged $7 per criminal record name search, instead of $2 per search, effective July 1, 2011. Estimate increased revenue from this fee change totaling $1,252,200 PR annually.

In addition, specify that all requesters who are neither government agencies nor nonprofit

organizations be charged $7 per criminal record name search, instead of $13 under current law. Estimate decreased revenue from this fee change totaling -$961,900 PR annually. [As a result of these changes, a flat $7 fee would be charged to all requesters for a criminal record name search.]

Delete $598,000 PR annually in expenditure authority under the PR continuing criminal history searches; fingerprint identification appropriation as a removal of noncontinuing elements from the base. [During 2009-11, the Legislature provided increased expenditure authority to DOJ on a one-time basis to upgrade the AFIS and the criminal history database.] In addition, delete $250,000 PR annually in expenditure authority from this appropriation to align expenditure authority in the appropriation with projected revenues and the estimated need for funding. Finally, delete $295,900 PR annually from this appropriation associated with a 10% reduction to supplies and other non-personnel costs.

DISCUSSION POINTS

1.   Under current law, effective July 1, 2011, the criminal history search fee charged to nonprofit organizations will revert from the current $7 per request to $2 per request. [Prior to 2009 Act 28, nonprofit organizations paid $2 per request for non-criminal justice related requests for criminal record name searches.] Under the bill, effective July 1, 2011, all nonprofit organizations would again be charged $7 per criminal record name search. Estimated revenue from this fee change would total $1,252,200 PR annually.

2.   The bill would also provide that all requesters who are neither government agencies nor nonprofit organizations be charged $7 per criminal record name search, instead of $13 under current law. Estimated decreased revenue from this fee change would total -$961,900 PR annually.

3.   As a result of these changes, a flat $7 fee would be charged to all requesters for a criminal record name search. The criminal history search fee fund is estimated to conclude 2010-11 with a closing balance of $2,007,800 PR, and under the bill is estimated to close 2012-13, with a closing balance of $3,050,300 PR. The fee changes included in the bill would improve the fund condition by $580,600 PR over the biennium. In regards to these fee changes, DOJ indicates that:

> "The Department supports the proposed changes to the statutory criminal history record check fee structure. This new fee structure treats all requesters uniformly at a fee that will provide the necessary revenue to cover costs funded through the fee, including those costs associated with maintenance and future upgrades for the AFIS and Records Check systems. When additional spending authority is needed in the future for maintenance or system upgrades, a request and justification will be made at that time."

4.   As a result, the Committee could consider approving the criminal history record check fee changes recommended by the Governor. [Alternative 1] On the other hand, the Committee may conclude that it would be appropriate to not unduly burden the often charitable activities of nonprofit organizations and that the criminal record name search fee should, therefore, revert to $2 per search, effective July 1, 2011. Reduced fees from nonprofit organizations would be offset by maintaining increased fees to requesters of criminal record name searches who are neither

government agencies nor nonprofit organizations (currently $13 per request).

5.   As a result, the Committee could consider deleting the fee changes under the bill. [Alternative 2] Under this alternative, it is estimated that the criminal history search fee fund would conclude the upcoming biennium with a closing balance of $2,469,700 PR. [It may be worth noting, however, that during 2009-11, nonprofit organizations have already been paying the $7 fee for a criminal record name search.]

6.   The bill also deletes $295,900 PR annually from the appropriation to which criminal history search fee revenue is deposited associated with a 10% reduction to supplies and other non-personnel costs. Administration staff has expressed its intent to lapse $295,900 PR annually in associated criminal history search fee revenue to the general fund as a series of lapse provisions to balance the general fund.

7.   However, this reduction was inadvertently calculated by the administration prior to removing $598,000 PR annually in expenditure authority from the base that was provided during the current biennium as one-time funding to upgrade the AFIS system and criminal history database. As a result, the 10% reduction and associated annual lapse amount were too high by $59,800 PR annually. The Committee could consider restoring $59,800 PR annually in expenditure authority to the PR continuing criminal history searches; fingerprint identification appropriation to correct this calculation error. [Alternative 3]

8.   Under the bill, in order to balance the budget, DOJ and other agencies are required to make annual lapses of unencumbered PR balances to the general fund. The Department is required to make PR lapses totaling $1,990,000 PR annually. Amounts associated with the miscalculated 10% reduction were included in this figure. The Committee could also consider reducing DOJ's annual PR lapse requirement by $59,800 PR annually to reflect that the supplies reduction to the criminal history search fee appropriation exceeded 10% annually (after accounting for the removal of one-time funding during 2009-11). [Alternative 4].

9.   On the other hand, reducing the DOJ lapse requirement may necessitate increased reductions or lapses elsewhere in state government. As there appear to be sufficient balances in the fund, the Committee could also maintain this lapse requirement. [Alternative 1]

ALTERNATIVES

1.   Approve the Governor's recommendation to specify that all nonprofit organizations be charged $7 per criminal record name search, instead of $2 per search, effective July 1, 2011. In addition, specify that all requesters who are neither government agencies nor nonprofit organizations be charged $7 per criminal record name search, instead of $13 under current law.

Delete $598,000 PR annually in expenditure authority under the PR continuing criminal history searches; fingerprint identification appropriation as a removal of noncontinuing elements from the base. In addition, delete $250,000 PR annually in expenditure authority from this appropriation to align expenditure authority in the appropriation with projected revenues and the estimated need for funding. Finally, delete $295,900 PR annually from this appropriation

associated with a 10% reduction to supplies and other non-personnel costs.

2.   Delete the provisions regarding changes to the fee structure for criminal history search fees. [*Under this alternative, effective July 1, 2011, the fee to nonprofit organizations for a criminal record name search would revert to $2 per search. Under this alternative, requesters who are neither government agencies nor nonprofit organizations would continue to pay $13 per criminal record name search.*]

ALT 2	**Change to Bill**
	Funding
PR-REV	**-** $580,600

3.   Restore $59,800 PR annually in expenditure authority to the PR continuing criminal history searches; fingerprint identification appropriation to correct an inadvertent calculation error.

ALT 3	**Change to Bill**
	Funding
PR	$119,600

4.   Reduce the annual PR lapse requirement for the Department of Justice by $59,800 PR annually to reflect that the supplies reduction to the criminal history search fee appropriation exceeded 10% annually (after accounting for the removal of one-time funding during 2009-11).

ALT 4	**Change to Bill**
	Funding
GPR-REV	**-** $119,600

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