

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 3835-01  
Bill No.: HB 1094  
Subject: Courts; Crimes and Punishment; Law Enforcement Officers and Agencies;  
Science and Technology  
Type: Original  
Date: February 2, 2004

---

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
General Revenue	(More than \$2,516,034)	(More than \$1,678,003)	(More than \$1,683,171)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(More than \$2,516,034)</b>	<b>(More than \$1,678,003)</b>	<b>(More than \$1,683,171)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2005</b>	<b>FY 2006</b>	<b>FY 2007</b>
DNA Database Fund*			
<b>Total Estimated Net Effect on <u>Other</u> State Funds*</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

\*Offsetting Revenues and Costs in DNA Database Fund could exceed \$100,000 in any given fiscal year.

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 10 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
<b>Local Government</b>	<b>(Unknown)</b>	<b>(Unknown)</b>	<b>(Unknown)</b>

### FISCAL ANALYSIS

#### ASSUMPTION

Officials from the **Department of Social Services** and the **State Treasurer's Office** assume the proposed legislation would have no fiscal impact on their agencies.

In response to a similar proposal, officials from the **Office of State Public Defender** assumed the proposed legislation would have no fiscal impact on their agency.

Officials from the **Office of Attorney General** assume costs are unknown, but anticipated to be less than \$100,000, to handle any new court proceedings arising under this legislation, particularly Section 650.035.11 which allows for certain DNA records to be expunged.

**Oversight** assumes the AGO could absorb the cost of the proposed legislation within existing resources. If the AGO experiences an increase that would require additional funding, the AGO could request the funding through the appropriation process.

ASSUMPTION (continued)

Officials from the **Office of State Courts Administrator (CTS)** assume the proposed legislation would make various revisions to the statutes relating to DNA analysis, expanding the list of those persons who must provide a sample. The legislation also assesses a mandatory fee of \$160 to those who qualify, to be collected by Department of Corrections. Persons who have been proven innocent and whose conviction has been set aside may petition the court for expungement of their DNA-related records. CTS would not expect that the number of persons seeking expungement would be so great as to have a fiscal impact on the courts.

Officials from the **Department of Mental Health (DMH)** assume all responsibility for procuring blood samples falls to agencies/parties other than the DMH. Therefore, there would be no cost to the DMH.

Officials from the **Office of Prosecution Services** assume the proposed legislation would have no fiscal impact on prosecutors.

Officials from the **Department of Corrections (DOC)** assume this proposal mandates that DOC (which includes the Division of Probation and Parole, or P&P) to collect DNA samples from all felony offenders which includes convictions, nolos, and guilty pleas (including SIS and SES.)

DOC has around 30,000 offenders in the Division of Adult Institutions (DAI) with day-to-day turnover of offenders. DOC has about 60,000 felons under supervision in P&P at any given time with constant changeover.

The current DNA database and tracking system would have to be modified system-wide to identify offenders who would need to be tested, notify and counsel with those offenders, schedule and ascertain availability of offenders for testing, and provide that staff witness the collection at the time of the test. Evidence handling protocol would have to be enhanced. Staff (probably licensed phlebotomists) would have to be funded for each site. DOC's contracted inmate medical care provider does not collect blood for forensic functions, but merely for patient care purposes. The additional staff person who has to be present at the time of testing would be absent from their current post and job duties.

ASSUMPTION (continued)

Offenders in the field (as opposed to incarcerated offenders) are much more likely to fail to appear and then have to be located and physically brought to the testing site. Court action is sometimes necessary and this is a costly endeavor to the state. It is impossible to estimate the number of offenders who might abscond to avoid testing and/or payment. It is also impossible to estimate how many further incarcerations would result due to failure to comply with this proposal. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost either through incarceration (FY03 average of \$38.10 per inmate per day, or an annual cost of \$13,907 per inmate) or through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender per day, or an annual cost of \$1,150 per offender).

Incarcerated offenders can refuse to be tested. The proposal is unclear whether use-of-force would be authorized to collect a sample. If so there will be overtime for the use-of-force and the subsequent paperwork, as well as additional staff accidents/workman comp claims.

A very high percentage of offenders do not have the \$160 this bill deems that DOC collects. DOC does not currently have the staff necessary to collect it if it was available. Any money that was collected would not defray DOC costs, as it goes to Public Safety. Two-thirds of the incarcerated offenders within DOC have a fixed monthly income of \$7.50 to \$8.50 (once they have earned their GED they are eligible for the extra \$1) to use for repayment of debt to the state of Missouri as restitution, child support and/or for court fees. The DOC is court-ordered to provide the \$7.50 monthly stipend in order for them to have access to the court system and to purchase hygiene items.

Collected samples would have to be stored correctly and the DOC does not currently have the means to carry this out at this volume. Transportation costs would be incurred from DAI and P&P sites throughout the state to deliver collected samples to the crime labs. This would take more officers away from their posts.

In summary, the fiscal impact for DOC to implement this proposal would be very significant. The exact cost cannot be estimated, but has the potential to be in the millions of dollars annually.

ASSUMPTION (continued)

Officials from the **Department of Public Safety – Missouri State Highway Patrol (MHP)** assume the proposed legislation would increase current annual DNA analysis from approximately 2,200 to 28,000 (new offenders) samples. Upon implementation of the law, approximately 108,575 (backlog) adult individuals who are presently under the supervision of the Department of Corrections will qualify for collection and analysis. The MHP would provide training and collection kits to the Department of Corrections. With equipment upgrades, the Profiling unit of the MHP's Crime Lab would be able to analyze the annual incoming offender samples and a portion of the offender backlog. It is unknown how quickly the Department of Corrections would provide the DNA samples from individuals already incarcerated or under field supervision to the MHP for analysis. MHP assumes the backlog samples would be provided by the Department of Corrections and be analyzed over a period of four years. The DNA processing cost is based on the estimated number of offenders, which was provided by the Department of Corrections in 2003, multiplied by the present cost of reagents and supplies. The equipment upgrade and additional employees are based on the estimated number of annual new offenders (not the initial backlog of 108,575) and the number of employees and the number and type of equipment needed to process these samples.

The Crime Lab would require the following additional FTE as a result of the proposed legislation:

2 Criminalists (each at \$28,044 per year) – duties would be to perform DNA sample preparation, analysis and review.

1 Laboratory Evidence Control Clerk (at \$18,732 per year) – duties would be to perform data entry, filing, and sample tracking and control.

1 Laboratory Evidence Technician (at \$22,320 per year) – duties would be to perform sample preparation, equipment maintenance and other laboratory support duties.

MHP estimates the total cost to be \$1,591,014 in FY 05; \$1,730,612 in FY 06; and \$2,126,530 in FY 07.

ASSUMPTION (continued)

MHP assumes the proposed legislation would result in long-range costs due to the increase current annual DNA analysis from approximately 2,200 to 28,000 (new offenders) samples. Upon implementation of the law, approximately 108,575 (backlog) adult individuals who are presently under the supervision of the Department of Corrections will qualify for collection and analysis. MHP assumes the backlog samples would be provided by the Department of Corrections and be analyzed over a period of four years. MHP estimates the long-range costs to be \$2,277,491 in FY 08 and \$977,631 in FY 09 and beyond.

**Oversight** assumes the proposal would require a DNA sample be obtained from certain new offenders and certain currently incarcerated individuals before their release. Department of Corrections stated there are approximately 18,000 persons released from Department of Corrections institutions annually. Oversight assumes MHP will perform DNA analysis on 46,000 persons annually (28,000 new offenders and 18,000 offenders to be released).

**Oversight** assumes revenues of an Unknown amount will be collected by the Department of Corrections and transmitted to the Department of Public Safety in the DNA Database Fund for the operation and support of CODIS systems.

**Oversight** assumes local crime laboratories would have an increase in costs due to the increased number of samples to be tested. Oversight has reflected this increase in costs as Unknown.

Officials from the **Independence Police Department, Kansas City Police Crime Laboratory, St. Louis Metropolitan Crime Laboratory, St. Louis County Crime Laboratory, Southeast Missouri Regional Crime Laboratory, Springfield Regional Crime Laboratory, and the Missouri Southern State College Police Academy** did not respond to Oversight's request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2005 (10 Mo.)	FY 2006	FY 2007
<b>GENERAL REVENUE FUND</b>			
<u>Costs</u> – Department of Corrections			
Increased personnel, expense, incarceration, and probation and parole costs	(More than \$100,000)	(More than \$100,000)	(More than \$100,000)
<u>Costs</u> – Missouri State Highway Patrol			
Personal Service (4 FTE)	(\$82,974)	(\$102,058)	(\$104,609)
Fringe Benefits	(\$42,532)	(\$52,315)	(\$53,623)
Equipment and Expense	<u>(\$2,290,528)</u>	<u>(\$1,423,630)</u>	<u>(\$1,424,939)</u>
<u>Total Costs</u> – MHP	<u>(\$2,416,034)</u>	<u>(\$1,578,003)</u>	<u>(\$1,583,171)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<u><b>(More than \$2,516,034)</b></u>	<u><b>(More than \$1,678,003)</b></u>	<u><b>(More than \$1,683,171)</b></u>
<b>DNA DATABASE FUND</b>			
<u>Revenues</u> – Department of Public Safety			
*Fees collected by Department of Corrections	Unknown	Unknown	Unknown
<u>Costs</u> – Department of Public Safety			
*Operations of CODIS Systems	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
<b>ESTIMATED NET EFFECT ON DNA DATABASE FUND*</b>	<u><b>\$0</b></u>	<u><b>\$0</b></u>	<u><b>\$0</b></u>

\*Offsetting Revenues and Costs could exceed \$100,000 in any given fiscal year.

FISCAL IMPACT - Local Government

FY 2005  
 (10 Mo.)

FY 2006

FY 2007

**CRIME LABORATORIES**

Costs – increased DNA samples for testing

(Unknown)

(Unknown)

(Unknown)

**ESTIMATED NET EFFECT ON  
 CRIME LABORATORIES**

(Unknown)

(Unknown)

(Unknown)

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

The proposed legislation would make several changes in the laws governing the collection of DNA evidence. The proposal would:

- (1) Clarify that forensic DNA analysis would be admissible in any criminal proceeding to prove any relevant fact;
- (2) Allow the state's DNA profiling system to be used to investigate any crime. Current law limits its use to investigating violent or sex-related crimes;
- (3) Clarify that the Department of Corrections could have DNA samples collected by a contracted third party;
- (4) Require a DNA sample to be collected from every person convicted of a felony or any offense in Chapter 566, RSMo (sex crimes). Current law does not require collection for some offenses in Chapter 566 or for nonviolent offenses;
- (5) Clarify that a DNA sample must be collected upon release from any correctional facility, including a mental health facility;
- (6) Make the acceptance of an offender from another state under any interstate compact conditioned upon the collection of a DNA sample when the offender has been convicted of an offense which would require a sample if committed in Missouri;
- (7) Prohibit the early release of any offender until the offender has provided a DNA sample;
- (8) Require an offender to provide another DNA sample if the offender's DNA sample is not adequate for any reason;



DESCRIPTION (continued)

- (9) Prohibit courts from excluding evidence or setting aside any warrant or conviction that is based upon a DNA sample that was obtained or placed in the database by mistake;
- (10) Establish the DNA Database Fund to be administered by the Department of Public Safety and require a \$160 fee to be assessed on all offenders required to provide a DNA sample. The fund would be used to provide for the ongoing operation of the state and local DNA index systems;
- (11) Make all DNA records and biological materials confidential and allow them to be disclosed only to government employees for the performance of their public duties;
- (12) Limit the use of records from the DNA profiling system to criminal investigations and proceedings and for law enforcement's identification purposes;
- (13) Allow an individual whose criminal case was dismissed or conviction reversed to request the court to order his or her DNA record expunged;
- (14) Require the State Highway Patrol's crime lab to expunge all DNA records of an individual upon receipt of a certified copy of the final court order reversing a conviction, as long as the person is not otherwise required to submit a DNA sample;
- (15) Allow the patrol to refuse to expunge any physical evidence obtained from a DNA sample if evidence relating to another person would thereby be destroyed; and
- (16) Prohibit courts from excluding evidence or setting aside any warrant or conviction due to a failure to expunge, or a delay in expunging, DNA records.

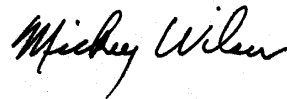
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Attorney General  
Office of State Courts Administrator  
Department of Mental Health  
Department of Corrections  
Department of Social Services  
Department of Public Safety  
    – Missouri State Highway Patrol  
Office of Prosecution Services  
Office of State Public Defender  
State Treasurer's Office

**NOT RESPONDING**

**Independence Police Department, Kansas City Police Crime Laboratory, St. Louis  
Metropolitan Crime Laboratory, St. Louis County Crime Laboratory, Southeast Missouri  
Regional Crime Laboratory, Springfield Regional Crime Laboratory, Missouri Southern  
State College Police Academy**



Mickey Wilson, CPA  
Director  
February 2, 2004