

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 1345-01  
Bill No.: HB 541  
Subject: Attorneys; Counties; Attorney General; Crimes and Punishment  
Type: Original  
Date: March 29, 2019

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Bill Summary: This proposal provides that cases a prosecuting attorney determines not to commence may be forwarded to the Attorney General's Office for review.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	Less than (\$561,529)	Less than (\$596,921)	Less than (\$602,007)
<b>Total Estimated Net Effect on General Revenue</b>	<b>Less than (\$561,529)</b>	<b>Less than (\$596,921)</b>	<b>Less than (\$602,007)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.

This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
General Revenue	6 FTE	6 FTE	6 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>6 FTE</b>	<b>6 FTE</b>	<b>6 FTE</b>

☒ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2020	FY 2021	FY 2022
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## **FISCAL ANALYSIS**

### **ASSUMPTION**

Officials from the **Attorney General's Office (AGO)** assume the proposal would require four Assistant Attorneys General II (\$50,500 annually each), one Paralegal (\$42,000 annually), and one Legal Secretary (\$31,514 annually). These employees would be needed to address the increased workload resulting from the review of cases declined by local prosecutors.

**Oversight** does not have any information to the contrary. Therefore, Oversight will reflect estimates provided by the AGO on the fiscal note.

Officials from the **Office of the State Public Defender (SPD)** state the proposal could result in additional cases assuming the AGO files the case and that the defendant is indigent.

**Oversight** notes over the last three fiscal years, the SPD has lapsed a total of \$152 of General Revenue appropriations (\$0 out of \$36.4 million in FY 2016; \$2 out of \$28.0 million in FY 2017; and \$150 out of \$42.5 million in FY 2018). Therefore, Oversight assumes the SPD is at maximum capacity and the increase in workload resulting from this bill cannot be absorbed within SPD's current resources.

Adding one additional Assistant Public Defender 1 (APD) with a starting salary of \$47,000, will cost approximately \$74,500 per year in personal service and fringe benefit costs. One additional APD II (\$52,000 per year; eligible for consideration after 1 year of successful performance at APD I) will cost the state approximately \$81,000 per year in personal service and fringe benefit costs. When expense and equipment costs such as travel, training, furniture, equipment and supplies are included, Oversight assumes the cost for a new APD could approach \$100,000 per year.

**Oversight** assumes the SPD cannot absorb the additional caseload that may result from this proposal within their existing resources and, therefore, will reflect a potential additional cost of (Less than \$100,000) per year to the General Revenue Fund.

Officials from the **Office of Prosecution Services** assume the proposal will have no measurable fiscal impact on their organization.

Officials from the **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organization.

ASSUMPTION (continued)

**Oversight** notes that the Office of Prosecution Services and Office of State Courts Administrator have each stated the proposal would not have a direct fiscal impact on their respective organizations. Oversight does not have any information to the contrary. Therefore, Oversight will reflect a zero impact on the fiscal note for these agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
<b>GENERAL REVENUE FUND</b>			
<u>Cost - AGO</u>			
Salaries	(\$229,595)	(\$278,269)	(\$281,052)
Fringe Benefits	(\$133,018)	(\$160,461)	(\$161,309)
Equipment and Expense	(\$98,916)	(\$58,191)	(\$59,646)
<u>Total Cost - AGO</u>	<u>(\$461,529)</u>	<u>(\$496,921)</u>	<u>(\$502,007)</u>
FTE Change - AGO	6 FTE	6 FTE	6 FTE
<u>Cost - SPD</u>			
Salaries, fringe benefits, and equipment and expense	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>	Less than <u>(\$100,000)</u>
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>	<b>Less than <u>(\$561,529)</u></b>	<b>Less than <u>(\$596,921)</u></b>	<b>Less than <u>(\$602,007)</u></b>
<u>FISCAL IMPACT - Local Government</u>	FY 2020 (10 Mo.)	FY 2021	FY 2022
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

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

### FISCAL DESCRIPTION

This bill specifies that law enforcement may forward a case to the Attorney General's office for review if, after law enforcement notifies the prosecuting attorney of a violation of state law for which there is probable cause of such violation, the prosecuting attorney decides not to commence a case against the person. After review, if the Attorney General determines there was probable cause of a violation of state law, the Attorney General may prosecute such case.

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

Attorney General's Office  
Office of the State Public Defender  
Office of Prosecution Services  
Office of State Courts Administrator



Kyle Rieman  
Director  
March 29, 2019

Ross Strobe  
Assistant Director  
March 29, 2019