

Department of Planning and Budget
2003 Fiscal Impact Statement

1. Bill Number HB1399-S1

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input checked="" type="checkbox"/> In Committee	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron Janis

3. Committee Senate Transportation

4. Title Blood sample taken from person's accused of DUI.

5. Summary/Purpose: The legislation proposes to amend §§ 18.2 -268.6 and 18.2 -268.7 of the Code of Virginia to eliminate the second sample available to the accused for analysis by an independent laboratory for persons arrested for DUI.

6. No Fiscal Impact: See Item #8.

7. Budget amendment necessary: No.

8. Fiscal implications: According to the Department of Criminal Justice Services, this bill would have no fiscal impact on the agency. In fact, it would free up the time of toxicologists in the Division of Forensic Science (DFS) from testifying in court when there are differences in DUI/drug reports from DFS and the secondary lab. This legislation would eliminate the second sample and thus eliminate the need to discuss or explain any differences.

The agency advises that the vast majority of differences are well within the tolerances acceptable to chemical analysis. However, it appears that the absence of a second sample could be used to question the quality of the sample and the validity of the test. If that occurs, it may lead to additional court costs in some trials. However, it is impossible to estimate the potential costs associated with such actions.

The amended legislation requires the department to retain any remaining sample for a period of 90 days, should there be a motion before the court to allow an independent analysis of the remaining sample. The storage cost for these samples are minimal and can easily be absorbed by the agency.

The Senate substitute strikes any reference to an independent laboratory's analysis in § 18.2-268.11 and § 46.2 -341.26:11 where each state that variances in test results or process are not in and of themselves grounds for finding the defendant not guilty.

9. Specific agency or political subdivisions affected: Department of Criminal Justice Services

10. Technical amendment necessary: None.

11. Other comments: None.

Date: 02/19/03/MEM

Document: G:\Fis\03\Dcjs\Hb1399s1.Doc Michael McMahon

cc: Secretary of Public Safety