

Department of Planning and Budget 2006 Fiscal Impact Statement

1. Bill Number HB313

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

2. Patron Albo

3. Committee Courts of Justice

4. Title Compensation of court-appointed counsel.

5. Summary/Purpose: Removes the monetary caps on court-appointed counsel fees and instead allows the court to set an hourly rate based on the type of case.

6. Fiscal Impact Estimates are: Preliminary. See Item 8.

7. Budget amendment necessary: Yes, Items 32, 33, 34 & 35

8. Fiscal implications: It is not possible to accurately predict the fiscal impact of this legislation. There are three variables that will determine the impact: potential change in hourly rate for court appointed council based on decisions from judges; potential change in the number of hours reported on each case due to higher rates; and, potential growth in the number of cases requiring court appointed council.

According to the Supreme Court, in fiscal year 2005, the Criminal Fund compensated court appointed council a total of \$39,150,000 for representation in all non-capital cases. As an example of the potential impact of this legislation, a 10 percent increase in any of the above variables would result in an annual impact of \$3,950,000. Assuming a reasonable growth rate of 10 percent in the hourly rate to better compensate court-appointed attorneys, a 10 percent growth rate in hours reported (Supreme Court believes hours are presently underreported), and a 5 percent growth in cases (consistent with historical trends) would result in an annual fiscal impact of \$9,875,000.

Increases to the criminal fund are included in the Governor's proposed budget. A total of \$9,321,615 in additional funding is included for each year of the biennium for the forecasted increase in costs to the criminal fund. Because the second year is level funded, it will likely be necessary to appropriate additional funds next session for fiscal year 2008 when a more accurate forecast of need is available. Based on the present forecast, as much as \$4.6 million might need to be added to fiscal year 2008. The eventual impact of this legislation would be on top of these increases.

In addition, \$1,250,000 for fiscal year 2007 and \$2,500,000 for fiscal year 2008 is included in the Governor's proposed budget to provide funding for a Criminal Fund rate increase paid to

court-appointed attorneys. This is in addition to \$2,000,000 included for that purpose by the 2005 General Assembly.

9. Specific agency or political subdivisions affected: Court System

10. Technical amendment necessary: No

11. Other comments: The legislation raises the potential for a degree of variation in the compensation actually paid to court-appointed attorneys since the hourly rate is determined by individual judges on a case by case basis. It is not clear if such variation would become an issue in itself. This bill is identical to SB 573.

Date: 02/01/06 / tmb