

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: SB806ES1

House of Origin	☐ Introduced	☒ Substitute	☒ Engrossed
Second House	☒ In Committee	☐ Substitute	☐ Enrolled

2. Patron: Morrissey

3. Committee: House Committee for Courts of Justice

4. Title: Ex parte requests for investigative services or expert assistance in noncapital cases.

- 5. Summary:** The bill allows an indigent defendant or his attorney, when such defendant is charged with a noncapital offense, to request the circuit court to conduct an ex parte hearing for the appointment of a qualified expert to assist in the preparation of the defendant's defense. For the request to be considered, the defendant or his attorney must state under oath or in a sworn declaration that a need for confidentiality exists. A risk that trial strategy may be disclosed unless the hearing is ex parte shall be sufficient grounds to establish a need for confidentiality. The bill requires the ex parte judge to hold an ex parte hearing as soon as is practicable after receiving the defendant's or his attorney's declaration of need for confidentiality. If the defendant is requesting assistance with scientific investigations, the ex parte judge must direct those requests to the Department of Forensic Science or Division of Consolidated Laboratory Services, if practicable

All ex parte hearings must be initiated by written motion and must be on the record, except for the initial declaration of need for confidentiality, the record of the hearings, together with all papers filed and orders entered in connection with ex parte requests for expert assistance, all payment requests submitted by experts appointed, and the identity of all experts appointed, shall be kept under seal as part of the record of the case and shall not be disclosed. Lastly, all ex parte proceedings, communications, or requests shall be transcribed and made part of the record available for appellate review or any other post-conviction review

The bill contains an enactment clause.

6. Budget Amendment Necessary: No

7. Fiscal Impact Estimates: Indeterminate (see Item #8)

- 8. Fiscal Implications:** According to the Office of the Executive Secretary of the Supreme Court ("OES"), the proposed bill could result in an increase in the number of experts appointed in noncapital cases involving indigent defendants. However, insufficient data exists to estimate the number of experts appointed in criminal cases or the amount of compensation those experts would receive from the Criminal Fund.

According to the Department of Forensic Science (“DFS”), the bill is not expected to create a material fiscal impact. The fiscal impact on the Division of Consolidated Laboratory Services cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Courts and Department of Forensic Science

10. Technical Amendment Necessary: No

11. Other Comments: None