

Department of Planning and Budget 2013 Fiscal Impact Statement

1. Bill Number: SB795

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|------------------------|--|-------------------------------------|------------------------------------|
| 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: Garrett

3. Committee: Courts of Justice

4. Title: Forensic Toxicology Fund created

5. Summary: This bill creates the Forensic Toxicology Fund and provides that a convicted defendant who demands the testimony of a forensic analyst rather than relying on the certificate of analysis is subject to an additional court cost of \$50 payable to the Fund. The Fund will be used for expenses of the Department of Forensic Science related to analyzing controlled substances and breath alcohol tests.

6. Budget Amendment Necessary: No.

7. Fiscal Impact Estimates: Indeterminate, Preliminary. See #8.

8. Fiscal Implications: It is not anticipated that the imposition of this fee would result in significant revenue for use by the Department of Forensic Science (DFS).

As drafted, the Fund created by the bill is linked to an existing court cost found in Virginia Code § 19.2-187.1(F). This subsection states that, if an accused person “calls the person who performed the analysis or examination as a witness and is found guilty of the charge or charges for which such witness is summoned,” a \$50 court cost is assessed. The Supreme Court of Virginia is unable to identify funds associated with this court cost because it shares a revenue code with other court costs currently deposited in the general fund. This bill raises the existing \$50 court cost to \$100 and directs that \$50 is to be deposited into a newly created “Forensic Toxicology Fund.”

The frequency with which courts have imposed this particular cost cannot be determined. However, it would seem likely that the current \$50 court cost is not frequently utilized as it requires that the witness be called by the accused. DFS experts are certainly available to consult with or testify for the defense in criminal cases but, in actuality, the agency’s experts are called as witnesses for the prosecution far more frequently.

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

10. Technical Amendment Necessary: Consideration may be given to changing the name of the Fund. The bill directs that the money in the Fund be used exclusively for expenses related to the “analysis of controlled substances and breath alcohol tests.” These two areas of

analysis, controlled substances and breath alcohol, have no relation to toxicological analysis of blood samples for alcohol or drugs.

11. Other Comments: None.

Date: 1/14/13

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c: Secretary of Public Safety