

Department of Planning and Budget 2014 Fiscal Impact Statement

1. Bill Number: SB658E

House of Origin ☐ Introduced ☐ Substitute ☐ Engrossed

Second House ☒ In Committee ☐ Substitute ☐ Enrolled

2. Patron: Black

3. Committee: Courts of Justice

4. Title: Inventory of physical evidence recovery kits.

5. Summary: The proposed legislation requires the Department of Forensic Science to create and maintain an inventory of all physical evidence recovery kits that have not been submitted to the Department for analysis prior to July 1, 2014. The bill requires the Department to make arrangements with law-enforcement agencies to submit such physical evidence recovery kits by January 1, 2015.

The engrossed bill provides that the Department shall make recommendations regarding categories of physical evidence recovery kits for which testing would be impractical or unproductive.

In addition, the engrossed bill states that the provisions of the legislative proposal shall not become effective unless an appropriation effectuating the purposes of this act is included in a general appropriation act passed in 2014 by the General Assembly that becomes law.

6. Budget Amendment Necessary: Yes.

7. Fiscal Impact Estimates: Tentative. See Items 7a and 8.

7a. Expenditure Impact:

Fiscal Year	Dollars	Positions	Fund
2015	\$100,000	1	General fund
2016	\$1,436,000	12	General fund
2017	\$1,479,080	12	General fund
2018	\$1,523,452	12	General fund
2019	\$1,569,156	12	General fund
2020	\$1,616,231	12	General fund

8. Fiscal Implications:

According to the Department of Forensic Science (Department), the engrossed legislative proposal will have fiscal impact on the Department.

Because the engrossed bill provides that the Department shall make recommendations regarding categories of physical evidence recovery kits for which testing would be impractical or unproductive, there may be potentially fewer kits to analyze in future years due to this provision. However, the bill also requires that all such untested kits to be submitted to the Department by January 1, 2015. These kits must be received, inventoried, securely stored and the relevant chain of custody maintained. The Department is additionally tasked with the formulation of the recommendations in the first year, a factor that also contributes to the estimated fiscal impact.

No information currently exists regarding the total number of untested physical evidence recovery kits (PERKs) that may be stored by the nearly 400 law enforcement agencies currently served by the Department. It is necessary to note that evidence submitted to the Department by law enforcement agencies pursuant to a "Request for Laboratory Examination" is, in accordance with the Department's accreditation standards, analyzed. This means that there is a high likelihood that all PERK evidence, once submitted to the Department, will be entered into the agency's backlog and tested.

The complexity of each PERK also impacts the Department's workload. In some instances, a PERK may contain dozens of samples and complex DNA mixtures that require additional resources for testing. It is not possible to assess the complexity of this unsubmitted evidence.

At this time, it is not feasible to precisely state the impact that this engrossed legislative proposal may have on the Department's workload in future years until the inventory and recommendations for testing are complete. For these reasons, the Department believes its initial impact assessment continues to apply.

The Department continues to estimate that the first year cost to establish the inventory specified in the proposed legislation will be \$100,000. This includes the personnel (salary and benefits) costs of hiring an additional full-time position. The Department estimates that one full-time position will be needed to define the inventory information specifications and PERKs submission process, and to work with Virginia law-enforcement agencies to ensure all kits are properly submitted in the time frame required, as well as to submit a report to the General Assembly summarizing the results of the inventory. The position estimate assumes one year reporting requirement only.

The Department has no information regarding the number of PERKs that would be submitted as a result of this legislation. Annually, the Department ships approximately 1,400 PERKs that are not returned to the agency for processing. Therefore, it is possible that thousands of kits could be submitted to the Department and included in the required inventory. Depending on the actual number of kits submitted, additional personnel resources may be required to receive and process this evidence. Costs to purchase additional equipment to analyze evidence are not included in the estimates; however, depending on the actual number of additional casework, additional equipment may be needed. Furthermore, storage space may also be required to securely store evidence.

Although the bill only requires the development of a *plan* for analyzing these kits, the Department's fiscal impact assessment assumes that, ultimately, it will be required to actually analyze these

PERKs for the presence of DNA. For purposes of the estimated fiscal impact, Department has assumed that 7,000 PERKs (1400 unreturned PERKs from the previous five years) would be returned. According to the Department, twelve scientists could complete testing on 7,000 PERKs in approximately 5 years. With the cost of personnel and testing supplies averaging approximately \$1000 per PERK, it would require on average approximately \$1.5 million annually for five years to fund this project as described, which includes funding for the additional scientist positions.

Finally, the legislation does not require that all PERKs collected by law-enforcement after July 1, 2014 be submitted and included in the prescribed inventory. Given this, the Department has not included any ongoing costs for increased caseload.

9. Specific Agency or Political Subdivisions Affected: Department of Forensic Science, Department of State Police, and local law-enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 2/12/2014-SB658E.doc (LAJ)