

# Department of Planning and Budget

## 2016 Fiscal Impact Statement

**1. Bill Number:** SB291

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

**2. Patron:** Black

**3. Committee:** Courts of Justice

**4. Title:** Physical evidence; procedure for collection, etc., of recovery kits.

**5. Summary:** The proposal establishes a comprehensive procedure for the collection and analysis of physical evidence recovery kits (PERK) for victims of sexual assault, including those who elect at the time of the exam not to report a sexual assault to a law-enforcement agency. Under the proposed legislation, PERKs from victims who elect not to report sexual assault to law enforcement are defined as "anonymous physical evidence recovery kits" and will be stored at the Division of Consolidated Laboratory Services (the Division) for two years, although the Division, the victim, or the law-enforcement agency may elect for the PERKs to be retained for a longer period of time.

If the victim later elects to report the sexual assault, the victim's PERK will be released to law enforcement. Health care providers are required to explain these procedures and time frames to victims. Where the victim elects to report the offense to law enforcement at the time of the exam, law enforcement is required to take possession of the victim's PERK immediately upon notification from the health care provider that the kit has been collected and, with limited exceptions, to submit the kit to the Department of Forensic Science for analysis within 60 days.

The proposal also outlines the exceptions to mandatory submission for analysis, time frames, and storage requirements for retention of analyzed samples; expungement of DNA samples obtained but not connected to a crime; and victims' notification rights.

**6. Budget Amendment Necessary:** No. The required funding under this bill was included in the Governor's 2016-2018 introduced Biennial Budget Bill under Item 410.

**7. Fiscal Impact Estimates:** Tentative. See items 7 a. and 8.

**7a. Expenditure Impact:**

| <i>Fiscal Year</i> | <i>Dollars</i> | <i>Positions</i> | <i>Fund</i>  |
|--------------------|----------------|------------------|--------------|
| 2017               | \$903,750      | 6                | General Fund |
| 2018               | \$901,625      | 6                | General Fund |
| 2019               | \$901,625      | 6                | General Fund |
| 2020               | \$901,625      | 6                | General Fund |
| 2021               | \$901,625      | 6                | General Fund |
| 2022               | \$901,625      | 6                | General Fund |

**8. Fiscal Implications:** The provisions of the proposed legislation create fiscal impact on the Department of Forensic Science (Department). Funding to address this fiscal impact is included in the Governor's introduced budget (HB30/SB30).

The Department currently receives approximately 700 PERKs annually for analysis. It is estimated that the PERKs submitted for analysis will double as a result of the mandatory submission provisions in this legislation. As a result, the Department requires six (6) additional DNA examiners to implement the provisions of the legislation.

The total fiscal impact for FY 2017 is estimated to be \$903,750. This amount includes \$483,750 in costs associated with salary and benefits for the six (6) examiners for up to nine months, and \$420,000 in costs for outsourcing the testing of 700 PERK kits to a private laboratory. According to the Department, outsourcing is necessary because training new DNA examiners typically takes between nine and twelve months. Therefore, during the training period, the Department will not have the additional capacity to analyze the increased PERK submissions.

The total fiscal impact for FY 2018, and subsequent years, is estimated to be \$901,625. This amount includes \$645,000 in costs associated with the salary and benefits for the six (6) examiners, and an additional \$256,625 for supplies associated with processing the estimated 700 additional PERK cases annually.

The proposal has no material fiscal impact on the Division of Consolidated Laboratory Services under the Department of General Services. The proposal has no fiscal impact on the Department of State Police, and the Virginia Department of Health. The impact on local law enforcement agencies and campus police at institutions of higher education is indeterminate.

**9. Specific Agency or Political Subdivisions Affected:** Department of Forensic Science, Department of General Services, Department of State Police, Virginia Department of Health, campus police at institutions of higher education, and local law enforcement agencies.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** Identical to HB1158.

**Date:** 1/27/2016-SB291 (LAJ)