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FISCAL IMPACT REPORT

ORIGINAL DATE 3/6/2017
LAST UPDATED 3/16/2017

SPONSOR Stewart **HB** 474/SPACS/aSFl#1/
SHORT TITLE DPS to Assist with Rape Kit Testing **SB** aHAFC

ANALYST Rogers

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
Potentially Substantial	Potentially Substantial	Potentially Substantial	Recurring	Sexual Assault Examination Kit Fund

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	Moderate	Moderate	Moderate	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 320, HB 491, SB7, SB 351, SB 423, and SB 475.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

University of New Mexico (UNM)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee (HAFC) amendment to Senate Bill 474 strikes the Senate Floor amendments. The amendment clarifies that DPS may assist local agencies through June 30, 2021. The amendment clarifies in subsection B that DPS may assist crime labs "in a class A county with a population greater than six hundred thousand according to the most recent federal decennial census." The amendment makes slight grammatical changes.

Finally, the amendment adds a temporary provision providing for unexpended and unused funds be transferred back to the general fund on July 1, 2021 and adds a delayed repeal of July 1, 2021.

Synopsis of SFL#1 Amendment

Senate Floor Amendment number 1 adds in Section 1, subsection B, that the Department of Public Safety shall assist other local law enforcement agencies through June 20, 2023, and adds the same date to a new Section 4 as a sunset date. The amendment also adds a new Section 3, creating a temporary provision that transfers any unspent and unencumbered balance on July 1, 2023, to the general fund.

Synopsis of Bill

Senate Public Affairs Committee substitute for Senate Bill 474 allows the Department of Public Safety (DPS) Forensic Laboratories Bureau to assist other local law enforcement agency crime laboratories. DPS may charge a laboratory up to \$800 for each kit that DPS processes and tests. The fees collected by DPS shall be deposited in the newly created Sexual Assault Examination Kit Fund.

FISCAL IMPLICATIONS

DPS did not provide an average per kit processing cost or other fiscal analysis. However, the provisions of the bill will almost certainly increase costs to DPS. However, because DPS is allowed by the bill to charge other labs up to \$800 per kit, some of the costs could be defrayed by the revenue. Because of the possibly defrayed costs, the budget impact is estimated to be moderate.

At DPS, many of the forensic scientist positions are difficult to fill and remain vacant for significant periods of time, frequently due to low pay. For DPS to help with other department's kits, it may require additional employees, lab space, and equipment.

This bill does not include an appropriation.

Continuing Appropriations language

This bill creates a new fund and provides for continuing appropriations. The Sexual Assault Examination Kit Fund does not revert to the general fund or any other fund. The LFC has concerns with including continuing appropriation language in the statutory provisions for newly created funds, as earmarking reduces the ability of the legislature to establish spending priorities.

AOC states there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and commenced prosecutions, and appeals from convictions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional personnel and resources to handle the increase.

SIGNIFICANT ISSUES

UNM explains “crime labs are overwhelmed with biological specimens from sexual assault victims. Some of these specimens are obtained by UNM Health Sciences Center (UNM HSC) providers from individuals who seek health care at UNM. This bill requires the Department of Public Safety Crime Laboratory to provide assistance to any local law enforcement crime laboratory that has over 100 backlogged untested biological specimens. There is currently only one local law enforcement crime laboratory, which is the Albuquerque Police Department.” AOC states it appears that only the Santa Fe lab is equipped to analyze DNA/serology.

AOC also explains “the most significant issue for the courts is having personnel from the department of public safety’s crime lab be available to testify in a criminal proceeding. The expert testimony in a sexual assault case is vital to the prosecution and defense and the expert must appear and testify in person. If the department of public safety forensic laboratory is a significant distance away from the district court where the criminal case is being tried, this could potentially cause difficulties in scheduling hearings and may also increase the costs associated with having the lab personnel travel to testify in court.”

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to HB 320, HB 491, HB 536, SB7, SB 351, SB 423, and SB 475.

In particular, HB 536 provides for a new optional personal income tax refund contribution designation, half of which will be disbursed to the newly created Sexual Assault Examination Kit Processing Grant Fund (nonreverting) and allows DPS to grant funds to local law enforcement agencies to process kits. The other half of funds will be distributed to the Department of Health to fund sexual assault services provided by sexual assault service providers. Although current analysis on HB 536 expects little revenue to be generated by the bill, a conflict of efforts exists.

TR/jle