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FORENSIC LAB FUND; REPEAL SUNSET

House Bill 5059 (Substitute H-1) First Analysis (4-1-98)

Sponsor: Rep. Robert Brackenridge
Committee: Health Policy

THE APPARENT PROBLEM:

The seven state police forensic laboratories, which are scattered throughout the state, perform tests and analyses that are vital to criminal investigations. State crime lab technicians not only perform drug analyses, which constitute much of their work; they also analyze paint, ink, fingerprints, blood samples, fibers, and other substances, and they analyze handwriting and conduct polygraph tests. In addition to their laboratory work, technicians often are called upon to testify about their results. Several local governments also maintain forensic laboratories to support law enforcement activities. In order to provide a much-needed source of additional revenue for the state and local forensic laboratories, Public Act 35 of 1994 instituted a \$150 assessment on defendants convicted of criminal sexual conduct and defendants convicted in cases where state or municipal forensic services had been used. Under the act, the investigating police agency that originates a criminal case is to inform the prosecutor if a forensic analysis had been performed. The prosecutor, in turn, is to inform the court, which is to assess the fee upon conviction. The statute allows the court to retain five percent of each assessment to offset its costs, with the remainder forwarded to the Department of Treasury for deposit in the State Forensic Laboratory Fund. Funds are transmitted to municipal laboratories based on the number of forensic analyses performed, and the balance is appropriated to the Department of State Police for its laboratory program. The program is scheduled to expire on June 6, 1998.

According to the Department of State Police, the program has been successful in generating new revenue for forensic services. Collections have increased yearly, as local police agencies, prosecutors, and courts become more aware of the fund and the process, from about \$24,000 in 1994, to about \$238,000 in 1995 (the first full year of its operation), to over \$666,000 in 1997. The department anticipates that with continued authorization to operate the funding program, these amounts would continue to

increase, and thus it is suggested that the act's sunset date be eliminated. Further, it has been suggested that participation by local police agencies and prosecutors in some parts of the state could be improved by providing a financial incentive for them to participate in the notification process that generates funding for forensic laboratory services.

THE CONTENT OF THE BILL:

The bill would amend Public Act 35 of 1994, the Forensic Laboratory Funding Act, to eliminate the June 6, 1998 sunset date. In addition, the bill would provide that the prosecuting attorney and the investigating law enforcement agency could each retain five percent of all assessments collected under the program (in addition to the five percent that the court is allowed to retain), with the balance being transmitted to the Department of Treasury for deposit into the State Forensic Laboratory Fund.

MCL 12.202 and 12.206

FISCAL IMPLICATIONS:

According the House Fiscal Agency, the bill could result in either an increase or a decrease in funding to the State Forensic Laboratory Fund; the fiscal impact cannot be determined at this time. (3-31-98)

According the Department of State Police, generally, collections to the fund have increased each year since the fund was created, and this is expected to continue. The bill would increase the amount of administrative expenses that could be retained locally from 5 percent to 15 percent, which would reduce the amount of money going into the fund. However, it is anticipated that overall collections would increase as participation by local prosecutors and police departments increased. It is not clear whether this increase will be enough to offset the increased share of administrative costs. (3-31-98)

House Bill 5059 (4-1-98)

ARGUMENTS:**For:**

The bill would eliminate the sunset date on the act that created the State Forensic Laboratory Fund and allow the program to continue. That act established a much-needed new source of funding for the financially-strapped forensic science division of the Department of State Police, and also provides additional money for local laboratory expenses. In doing so, the program turns to a particularly appropriate source for those funds: the criminals whose illegal acts give rise to crime lab expenses. The program holds convicted criminals responsible for one element of the costs that they create. The Department of State Police reports that collections under the program have risen each year; in 1997 the assessments generated \$666,000 for the fund. It is expected that with continued education to the local police agencies and prosecutors, more will participate in the notification process and in turn, more assessments will be collected. The additional funding provided to the state police under the 1994 legislation has allowed the forensic labs to update technology and to replace aging equipment, which has allowed the labs to provide additional forensic work for local police agencies throughout the state.

For:

The bill would allow prosecutors and local police agencies to retain a portion of assessments collected in their jurisdictions; this would help those agencies cover their administrative expenses and encourage them to participate in the notification process set up in the statute that results in an assessment being imposed by the court on a criminal defendant. It is anticipated by some that this increase in activity will generate enough additional revenue to more than offset the loss to the fund created by allowing more funds to be used for administrative expenses.

Against:

This provision of the bill is problematic in several respects. First, it is not clear whether, indeed, the increased participation that is anticipated would really be enough to offset the loss of money going into the fund -- the portion that is actually used for criminal justice activities. One wonders whether prosecutors and local police really should have to be persuaded with a financial incentive to participate in a program that most agree greatly benefits the criminal justice system overall. Further, though the act specifies that five percent of assessments is to be retained by a court to offset its administrative expenses, in actual

implementation a court remits all such assessments to its local "funding unit" (the county or municipality), which, according to the State Court Administrative Office, may not in all cases credit those additional amounts back to the court's operation. The same would probably be true in the case of prosecutors and local police agencies. What is more, the language of the bill would allow prosecutors and police agencies to "retain" a portion of the funds, but these entities would not actually have possession of that money in order to "retain" a portion of it. While the intention of the 1994 legislation, and of the bill, is quite obviously to allow those entities to have those funds to offset their costs, that aim may not be accomplished with the existing language of the act and the bill.

POSITIONS:

The Department of State Police supports the bill. (3-31-98)

Analyst: D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.