EXHIBIT 7
2/22/07
HB 629

NOT FOR DISTRIBUTION

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0629	**Title:**	Mediation for criminal proceedings
Primary Sponsor:	Hamilton, Robin	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☐ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$30,000	$30,000	$30,000	$30,000
Revenue:				
General Fund	$0	$0	$0	$0
Net Impact-General Fund Balance	($30,000)	($30,000)	($30,000)	($30,000)

Description of Fiscal Impact:

Per Title 47, the Office of the State Public Defender provides attorney services to clients that qualify for them. This bill would allow the court to introduce mediation proceedings, after commencement of prosecution and before a verdict, for certain criminal proceedings. This would result in additional costs associated with time spent in mediation proceedings, paid out directly to contracted mediators.

Mediation as described in HB 629 would impact any Department of Justice criminal cases and certainly cases handled by the Prosecution Services Bureau, as they handle a number of crimes not excepted out in section 1 of the bill. It would be impossible to estimate how many of these cases would be subject to the new law.

FISCAL ANALYSIS

Assumptions:

Department of Justice – Legal Services

1. The Department of Justice assumes that the proposed legislation sets out a new option, suggested by a court, but only with the consent of the parties, of mediation in criminal cases. However, there is no reference to different or additional case resolutions and it is assumed that the result would be the current options explorable and attainable through plea negotiations. The process would require consideration of

mediation by a court and the parties and would involve mediators that are knowledgeable of all aspects of criminal law, including trial considerations, sentencing concerns, and post-conviction remedies.

2. Mediation as described in HB 629 would impact any Department of Justice criminal cases and certainly cases handled by the Prosecution Services Bureau, as they handle a number of crimes not excepted out in section 1 of the bill. It would be impossible to estimate how many of these cases would be subject to the new law.
3. Because the costs would be split between the prosecution and the defense or would be borne by the prosecution where a public defender is involved, it is assumed that the prosecution would be required to pay the costs of a mediator, travel expenses associated with a mediation conference (both attorneys, the mediator, etc.), witnesses costs associated with a mediation conference, and the documents necessary for the mediation. The costs of a mediator would be substantial, assuming the mediator was trained, experienced, and willing to take the time to do the job. Such professionals commonly bill for each hour spent. Public defenders also bill by the hour. In Department of Justice prosecuted cases, Department of Justice would have to pay staff attorneys' additional salary to engage in mediation. The process would include additional hours for attorneys on both sides to schedule the mediation and to decide the confidentiality issues thereafter.
4. The vast majority of cases prosecuted would be done at the local level and the costs would reside there.

Office of the Public Defender

5. This bill excludes 11 felonies from mediation; however OPD estimated an increase of approximately 300 cases, annually, might be affected by this bill and require mediation. The cost of mediation, averaging approximately $100/hr, would be split between the prosecution and the public defender, averaging $50/hr. OPD estimates approximately 2 hours for each mediated case (estimated 300 cases * 2 hrs * $50/hr = $30,000).

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
Office of the Public Defender				
Expenditures:				
Operating Expenses	$ 30,000	$ 30,000	$ 30,000	$ 30,000
Funding of Expenditures:				
General Fund (01)	$ 30,000	$ 30,000	$ 30,000	$ 30,000
Revenues:				
General Fund (01)	$ -	$ -	$ -	$ -
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	$ (30,000)	$ (30,000)	$ (30,000)	$ (30,000)

Effect on County or Other Local Revenues or Expenditures:

This bill will affect cities and counties as the costs of mediation in these cases are to be paid by the prosecution, which are funded by local governments.

Sponsor's Initials	Date	Budget Director's Initials	Date
			2/22/07