



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill # HB0563

Title: Testing of bodily fluids for pathogens

Primary Sponsor: Jones, William J

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

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$100,000	\$100,000	\$100,000	\$100,000
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>(\$100,000)</u>	<u>(\$100,000)</u>	<u>(\$100,000)</u>	<u>(\$100,000)</u>

Description of Fiscal Impact:

The bill appropriates \$100,000 per year to the Department of Justice to fund the bodily fluids testing described in the bill.

FISCAL ANALYSIS

Assumptions:

Department of Justice

1. Approximately 900 victims of sexual assault and sexual intercourse without consent reported incidents to law enforcement during CY 2006.
2. The nature of some sexual crimes does not include exposure to bodily fluids.
3. The department is unable to determine the percentage of those victims who may choose to be tested. In addition, the department is unable to determine the number of individuals providing voluntary emergency assistance that could potentially be exposed to bodily fluids and choose to be tested.
4. The total cost for standard STD testing is approximately \$1,000 per test. This does not include any treatment but does contemplate some physician charges.
5. There is appropriated to the Department of Justice \$100,000 each year from the general fund to pay for the above mentioned tests.

Department of Corrections

6. This bill requires a test for communicable diseases when someone is charged with sexual assault or sexual intercourse without consent. It also allows the victim to be provided with the offender’s disease status.
7. The Department of Corrections would be affected by offenders who are charged with the above crimes while in custody and who need to be tested for communicable diseases by infirmary staff. In 2006, there was one reported charge involving sexual assault or sexual intercourse without consent.
8. DOC sends tests for communicable diseases to the state lab. Because there has been only one reported charge in 2006, DOC would be able to cover any fiscal impact, resulting from administering these tests, with current resources.

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
<u>Fiscal Impact:</u>				
Department of Justice				
<u>Expenditures:</u>				
Operating Expenses	\$100,000	\$100,000	\$100,000	\$100,000
<u>Funding of Expenditures:</u>				
General Fund (01)	\$100,000	\$100,000	\$100,000	\$100,000
<u>Revenues:</u>				
General Fund (01)	\$0	\$0	\$0	\$0
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$100,000)	(\$100,000)	(\$100,000)	(\$100,000)

Technical Notes:

1. Section 1, subsection (3) of the bill appears to be both under-inclusive and over-inclusive when describing the class of persons allowed to draw a blood sample for the testing required by the bill. Not all licensed health care providers are authorized by the scope of practice of their license to draw a blood sample. (As an example, a licensed addiction counselor, an occupational therapist and a hearing aid dispenser are not allowed by their licenses to engage in invasive procedures such as drawing blood.) Other persons, not licensed by the State of Montana, however, are authorized to draw blood under the direction of a suitably licensed health care provider. (As an example, a phlebotomist is specially trained to draw blood samples, but is not licensed by the State of Montana. A phlebotomist draws blood under the orders and general supervision of a physician or other licensed health care provider acting within the scope of the provider's licensure.)
2. Section 1, subsection (3) of the bill does not specify that law enforcement personnel must obtain a search warrant before directing that blood be drawn from the person arrested, and may imply that blood must be drawn before a warrant is issued. (Page 1, line 26: "The testing must be conducted as soon as possible after the arrest")

Sponsor's Initials

Date

Budget Director's Initials

Date