

SESSION OF 2010

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2605**

As Agreed to March 26, 2010

**Brief\***

HB 2605, as amended, would require the court to order certain fees for forensic science or laboratory services or forensic computer examination services, or a DNA database fee.

Forensic Science or Laboratory Services  
or Forensic Computer Examination Services

The bill would require the court to order any adult convicted or diverted, or any juvenile adjudicated or diverted of a misdemeanor, felony, or a violation of a municipal ordinance prohibiting such acts to pay a separate court cost of \$400 for every individual offense if the forensic science or laboratory services or forensic computer examination services are provided in connection with the investigation by the Kansas Bureau of Investigation (KBI), the Sedgwick County Regional Forensic Science Center, the Johnson County Sheriff's Laboratory, the Heart of American Regional Computer Forensics Laboratory, or the Wichita-Sedgwick County Computer Forensics Crimes Unit. The bill would authorize a municipality, that has an agreement with the laboratory providing services, to set a restitution amount to be paid by the defendant that is related directly to the cost of the laboratory services rather than the statutorily set amount of \$400.

The court would not be authorized to lessen or waive the fee unless the court determines that the person is indigent and

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the basis for the court's determination is reflected in the court's order.

Fees collected for services provided would be deposited to the designated fund of the agency which provided the services.

#### DNA Database Fee (2010 HB 2637, as introduced)

The bill would require persons convicted or adjudicated of certain offenses that require submission of a DNA sample to pay a separate court cost of \$100 to the KBI DNA database fee for each event of conviction. The bill would require a court to order the fee even if the person's DNA sample is already on file with the KBI. The bill also would not authorize a court to lessen or waive the fee unless the court determines that the person is indigent and the basis for the court's determination would be required to be reflected in the court's order.

#### **Conference Committee Action**

The Conference Committee agreed with the Senate amendments with the additional agreed upon amendment which would authorize a municipality, that has an agreement with the laboratory providing services, to set a restitution amount to be paid by the defendant that is related directly to the cost of the laboratory services rather than the statutorily set amount of \$400.

#### **Background**

The proponents of the bill, as introduced, who provided testimony in the House Committee were representatives of the KBI, the Kansas Association of Chiefs of Police, the Kansas Sheriff's Association, and the Kansas Peace Officers Association.

There were no opponents of the bill who testified in the House Committee.

The House Committee amended the bill to authorize a defendant to prove the defendant has paid the DNA database fee in connection with a previous conviction or adjudication in order to relieve the court of the duty to order payment of the DNA database fee on a subsequent conviction or adjudication. The House Committee also amended the bill to clarify where the money collected from the fee should be deposited, to the designated fund of the agency that provided the services.

The proponents of the bill who provided testimony in the Senate Committee were representatives of the KBI, the Kansas Association of Chiefs of Police, the Kansas Sheriff's Association, and the Kansas Peace Officers Association.

There were no opponents of the bill who testified in the Senate Committee.

The Senate Committee amended the bill to:

- Change the KBI Lab Analysis Fee Fund to the KBI Forensic Laboratory and Materials Fee Fund;
- Delete the provision which required the court to order the \$400 fee for forensic science or laboratory services or forensic computer examination services regardless of whether the person is ultimately convicted, adjudicated, or diverted of the specific charged offense requiring such services; and
- Insert the provisions of HB 2637, as introduced, to require persons convicted or adjudicated of certain offenses that require submission of a DNA sample to pay a separate court cost of \$100 to the Kansas Bureau of Investigation's (KBI) DNA database fee for each event of conviction.

The Senate Committee of the Whole amended the bill to add violations of a municipal ordinance to the list of convictions

requiring the court to order a \$400 fee for forensic science or laboratory services, or forensic computer examination services.

Fiscal notes for both HB 2605 and HB 2637 are included below.

According to the fiscal note on the bill, as introduced, the KBI states the passage of HB 2605 has the potential to increase the agency's revenues by approximately \$775,000 in FY 2011. The agency states that this fee currently is not being assessed consistently by the courts in all required cases. Therefore, the KBI is not receiving its anticipated fees from the courts. However, the Kansas Association of Counties states that passage of HB 2605 could reduce the fees assessed to the Sedgwick County Regional Forensic Center and the Johnson County Sheriff's Laboratory because the bill allows the courts to lessen or waive the fee if the court determines that a person cannot pay. However, no estimate in reduced fee revenue was provided. The Division of the Budget believes that the bill would actually generate additional revenues for the two laboratories because any fee amount not waived would be assessed more regularly by the courts. The courts would be required to either assess the fee or state why the fee is being reduced or not assessed. Any fiscal effect associated with HB 2605 is not reflected in *The FY 2011 Governor's Budget Report*.

According to the fiscal note on the bill, as introduced, the KBI states passage of HB 2637 has the potential to increase the agency's revenues by approximately \$1.3 million in FY 2011. The agency states that this fee currently is not being assessed by the courts in all required cases. The KBI believes the fee is not being assessed because the courts are not determining if a person has previously submitted a DNA sample and are not assessing the fee or enforcing that the fee gets collected. Therefore, the KBI is not receiving its anticipated fees from the courts. This bill requires the courts to assess the fee even if a person previously has submitted a sample, which could reduce the courts' workload. The Office of Judicial Administration states that it collected \$94,200 from fees that get deposited into the KBI's DNA Database Fund. The Office believes that it would collect more fees under HB 2637.

However, it is not possible to predict the additional amount it would collect. Any fiscal effect associated with HB 2637 is not reflected in *The FY 2011 Governor's Budget Report*.

Forensic science, laboratory, or computer examination services; DNA database fee