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## FISCAL IMPACT REPORT



SPONSOR: Mohorovic DATE TYPED: 01/31/02 HB 297/aHJC

SHORT TITLE: Fingerprinting Procedures SB \_\_\_\_\_

ANALYST: Belmares

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
			\$1.0 See Narrative		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 Attorney General’s Office (AGO)  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee amendment strikes the word “card” and “cards” and inserts in lieu thereof the words “record” and “records” respectively. The amendment addresses the occasional practice of fingerprint impressions recorded digitally and not on traditional paper cards.

#### Synopsis of Original Bill

House Bill 297 provides the legal framework for implementation of a State Tracking Number (STN) approach. The bill establishes that an arresting officer or the jail will fingerprint and photograph persons arrested for felony crimes, a misdemeanor punishable by six months of imprisonment, or of a drunk driving violation of statute or ordinance. HB 297 also requires fingerprint impressions prior to an individuals release from arrest. At the time of fingerprinting, a state tracking number shall be assigned to the fingerprint card and the booking sheet. All felony, misdemeanor and DWI arrest fingerprints shall be made in duplicate and forwarded to the FBI in Washington, D.C. The district attorney and AOC are to electronically provide final dispositions on all cases assigned a tracking number, including those cases in which a district attorney decides not to file

charges. HB 297 also provides that a person may petition the department to expunge arrest information on the state or FBI record if the crime is not one of moral turpitude. Finally, HB 297 provides that DPS will promulgate rules governing submission of fingerprint cards and the state tracking number system and will allow DPS to audit AOC and AODA for compliance with statute requirements.

### Significant Issues

DPS indicates approximately 35 percent of records maintained by the State Central Repository for Criminal History contain a final disposition (i.e., whether the person arrested was ever prosecuted, found guilty, or exonerated) and that passage of HB 297 will improve criminal history records. AODA asserts that the HB 297 will allow prosecutors to more effectively prosecute repeat offenders if improved disposition data provided by HB297.

The state Criminal Justice Information Management Team (CJIMT) is responsible for seeing that various parts of the criminal justice system such as law enforcement, prosecution, defense, courts, corrections and social services are able to share information on criminals and persons accused of crimes. In cooperation with CJIMT, many of the policy and procedural issues regarding the implementation of a state tracking number program have already been developed and to some degree implemented at various judicial districts throughout the state. CJIMT is carrying out a multi-year strategic plan for data sharing. HB 297 addresses the first component of the plan by helping to ensure that every criminal incident has a "State Tracking Number" (STN).

DPS, AODA and AOC are working to establish a information technology link to receive final disposition information from affected agencies. HB 297 requires continued close cooperation between different agencies of the judicial system to produce final dispositions on fingerprint cards.

HB 297 is related to House Executive Message 10.

### **FISCAL IMPLICATIONS**

DPS indicates it may require additional (unspecified number) FTE for audit purposes and tracking of arrests; however, the agency did not provide an estimated fiscal impact. Additionally, DPS estimates \$1.0 would be required for duplication of new materials.

### **ADMINISTRATIVE IMPLICATIONS**

The district attorney offices, through AODA, have been attempting to collapse their databases into one repository to transmit final disposition data to the DPS central repository. AODA indicates that it and the district attorney offices may not be able to comply with the provisions of HB 297 if they do not receive additional funding for their computer automation systems.

The AOC central repository is currently refreshed at least every 48 hours and the timely filing of the final judgment and sentence is a significant issue. AOC indicates that efforts to finalize judgment and sentence in the court, at the time of sentencing, may require additional (unspecified number) clerks, as well as system support, to help with document creation in the courtroom. The AOC's costs for implementing this bill were included in the appropriations request for CJIMT. The LFC has recommended funding for CJIMT for FY2003.

## TECHNICAL ISSUES

The wording of the bill suggests that State Tracking Numbers are assigned to fingerprint cards; however, STNs are assigned to “incidents” (arrests or citations or other charges). The STN is then affixed to the fingerprint card and to all other records associated with the incident.

HB 297 refers to fingerprint cards; however, fingerprints are sometimes taken in digitally using an Automated Fingerprint Identification System (AFIS). HB 297 language could be broadened by replacing “cards” with “records.”

If enacted, HB 297 would allow for the expungement of misdemeanor arrest information contained in state and FBI records if the crime is not one of moral turpitude. However, the AGO indicates the state would not have jurisdiction to request that the information be expunged from the FBI records. Additionally, the AGO indicates that expungement of arrest information on crimes such as DWI would negatively impact those arresting officers and prosecutors attempting to determine prior DWI offenses. Finally, AOC has indicated that the rationale for expungement is unclear in the bill given that the bill establishes those cases in which the citizens seek expungement for minor offenses or where there is not disposition information.

## AMENDMENTS

DPS has suggested that language could be included to specify the amount of time that must pass before the contemplated misdemeanor records can be expunged. Additionally, DPS has indicated HB 297 should precisely identify the persons charged with fingerprinting prisoners of felony crimes and that ‘crimes of moral turpitude’ should be defined or referenced.

EB/prr:ar