



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 1794

PRINTERS NO. 2472

PRIME SPONSOR: Mustio

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
General Fund	See "Fiscal Impact" Below	

SUMMARY: House Bill 1794 is the HIV-Related Testing for Sex Offenders Act, and would take effect in 60 days.

ANALYSIS: This legislation allows victims of certain sexually based offenses to request that the court order defendants to submit to HIV testing. These crimes must involve sexual contact with the victim where there is probable cause to believe there was a likely transmission of bodily fluids between defendant and victim. The crimes to which this can apply are: rape, statutory sexual assault, involuntary deviate sexual intercourse, sexual assault, institutional sexual assault, aggravated indecent assault, indecent assault, incest, endangering the welfare of children, corruption of minors, sexual abuse of children, and sexual exploitation of children.

FISCAL IMPACT: This legislation's impact will be felt in both federal and state funding. Enactment of this legislation will put the Commonwealth in compliance with the federal Violence Against Women Act (VAWA). Since the state does not have a statute allowing victims to request HIV testing of a defendant in these cases, the federal government withholds 5% of any grants for which Pennsylvania qualifies under VAWA. For the 2010 federal fiscal year, this cost the Commonwealth \$303,186. Enactment of HB 1794 means the state would no longer be assessed this penalty.

The cost of this legislation to the Commonwealth depends upon how many tests are performed and who ultimately pays for them. The legislation states that, "The court may order that the cost of the HIV-related testing and any follow-up testing of the defendant be borne by the Department of Health or the Department of Corrections or by the defendant if the defendant is an adult." It further states that if the defendant is convicted and is an adult, the defendant will be responsible to pay for any testing, and, "In no event shall the victim pay for HIV-related testing." According to the Department of Health (DOH), an initial HIV screening test on oral fluids costs \$13, and if this test is positive, a \$40 confirmatory test is necessary, for a total cost of \$53. This is the cost for the test used in the estimates below, with the understanding that it may be inflated since not every test will be positive and require confirmation.

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Estimates of the number of individual offenders in an average year vary greatly as well. According to the Pennsylvania Commission on Sentencing (PCS), the approximate number of individuals charged with at least one of the offenses listed in this legislation is about 5,000 per year. What is impossible to determine from available data is the number of these cases involving sexual contact with the victim and the probable transmission of bodily fluids, where the victim may request that the court order the test. However, using this high estimate multiplied by the \$53 cost for a test allows us to estimate that the cost of this legislation will not exceed \$265,000 in one year.

The PCS then looked at the number of individuals convicted of one of the offenses listed in HB 1794 per year. Data on convictions is more detailed and the Commission is able to determine how many convictions of these crimes involved offenses of a sexual nature. This does not indicate the probable transmission of bodily fluids or whether the victim will request the test, but both outcomes seem more likely in these cases. This lowers the number of cases to 1,135 and the potential cost, at \$53 per test, to \$60,155.

The final variable is whether or not the defendant pays for the test, or if the cost is passed on to the Commonwealth. The estimates above simply assume the entire cost would be paid by the Commonwealth and any recovery from a defendant would reduce the fiscal impact.

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House Appropriations Committee (R)

DATE: October 18, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.