



Legislative Fiscal Office
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Bill Title: Relating to criminal records checks; declaring an emergency.

Government Unit(s) Affected: Department of State Police, Department of Human Services

Summary of Fiscal Impact

Costs related to the measure are indeterminate at this time - see explanatory analysis.

Measure Description

The measure makes three unspecified one-time General Fund appropriations for the biennium beginning July 1, 2025. One General Fund appropriation is made to the Department of State Police (OSP) to implement the Record of Arrest and Prosecution Background (Rap Back) program and two General Fund appropriations are to the Department of Human Services (DHS) to participate in the Rap Back program by their background check unit and to subsidize the cost of employee criminal records checks.

The Rap Back program is a federal program managed by the Federal Bureau of Investigation's (FBI) Criminal Justice Information Services Division. HB 4122 (2024) authorized OSP to enroll in the FBI's Next Generation Identification (NGI) Noncriminal Justice Rap Back Service, allowing an individual's fingerprints to be submitted and retained through an NGI system following a background check if the individual consents to participation in the program. This allows the individual's fingerprints to be stored and subject to future searches in the NGI system if a future crime is alleged anywhere in the United States. If a new crime is alleged, or previously unreported criminal activity is updated, then an electronic notice is sent to the agency who conducted the initial background check.

Fiscal Analysis

The fiscal impact is indeterminate and dependent on the level of funding received for the program and the number of enrollments into the program. The Legislative Fiscal Office (LFO) notes that while the measure is declaring an emergency and is effective upon passage, the appropriations do not go into effect until the beginning of the July 1, 2025 biennium. The fiscal impact will also be dependent on the timing of when OSP is given the approval of the program by the FBI and then the time it takes to get approval for the requested entities to be enrolled into the program.

Department of State Police

The fiscal impact to OSP is indeterminate. The measure makes a one-time unspecified General Fund appropriation to OSP for implementation of the Rap Back program authorized by HB 4122 (2024). The Department has been working with the FBI since April 2024, and is currently awaiting approval for enrollment. Once approved, OSP can then begin the process for each interested entity who would like to enroll in this voluntary program. The FBI does not charge a fee for enrollment, there would be an annual fee that OSP would charge based on the number of entities who wish to enroll. Currently, OSP provides regulatory fingerprinting for 79 entities, 47 of which are state agencies. Thus far, only one entity has requested to participate in the program.

On average, OSP conducts approximately 220,000 regulatory fingerprint checks a biennium, and charges \$33 per LEDS check and \$12 for the FBI check. This revenue is separate from the Rap Back program and is expected to continue for non-participants in Rap Back. However, there is an expected decrease in revenue over time if entities enroll into the program, as any recurring background checks would not be necessary. This decreased amount will be dependent on the number of entities who subscribe to the program.

OSP does not currently retain any of the fingerprint background checks. Under the Rap Back program, fingerprint background checks would need to be retained, and any individual previously fingerprinted would need to go through the process again as part of enrollment. Due to this requirement, OSP anticipates an initial large volume of fingerprint background check requests.

DHS is the only entity to request participation thus far. On average, OSP would receive 80,000 regulatory checks for DHS per biennium. With DHS' interest of enrollment in the Rap Back program, OSP anticipates an additional 270,000 background checks from DHS based on previous numbers received from the department. Currently, OSP has 15 regulatory staff able to process approximately 816 per day, or 146,880 per year.

To handle this additional workload, OSP anticipates needing an additional eight staff to process an estimated 68,544 checks per year. Staff positions include seven permanent full-time Fingerprint Technician positions (6.88 FTE in 2025-27 and 7.00 FTE in 2027-29) and one permanent full-time Business Operations Supervisor 1 (0.88 FTE in 2025-27 and 1.00 FTE in 2027-29) with an estimated cost, including standard position-related services and supplies costs, of \$1.7 million General Fund for the 2025-27 biennium. While the funding provided in the measure is one-time, positions would need to extend beyond the 2025-27 biennium to continue enrollment in the program. However, once participation in the program is determined, OSP anticipates moving to an Other Funds fee-based model beginning with the 2027-29 biennium, but the amount of the fee will be dependent on participation levels and program costs. Of further note, is that for the 2023-25 biennium, OSP was provided \$540,734 General Fund and six limited duration positions to establish the RAP Back program, which will allow the program to become operational on July 1, 2025.

Department of Human Services

The fiscal impact to DHS is indeterminate. The measure makes two unspecified General Fund appropriations to DHS to participate in the Rap Back program and to subsidize the costs of employee criminal records checks. The funding will be dependent on the number of subscriptions in the Rap Back program and the amount and schedule OSP charges for the subscriptions.

DHS estimates a total of 352,588 background checks to be submitted in the 2025-27 biennium. Of these, approximately 263,142 would be subscriptions to be maintained. The total funding depends on several factors, including the number of subscriptions within DHS, the period of which DHS will need to pay for the subscriptions, and the fee amounts and schedules determined by OSP. Assuming OSP charged an annual fee of \$42 per subscription, this would account for a potential \$16.5 million in subscription fees for the 2025-27 biennium. In addition, DHS would need to pay the federal fingerprint capture fee cost of \$12 per fingerprint check regardless of it passing or not, which would be an estimated \$4.2 million for the 2025-27 biennium.

Relevant Dates

The measure declares an emergency and takes effect on passage.