

## FISCAL NOTE

April 16, 2018

|                 |        |                      |      |                 |               |
|-----------------|--------|----------------------|------|-----------------|---------------|
| <b>Bill No:</b> | SB 916 | <b>Printer's No:</b> | 1535 | <b>Sponsor:</b> | Greenleaf (R) |
|-----------------|--------|----------------------|------|-----------------|---------------|

### COST / (SAVINGS)

| Fund (s)     | 2017-18             | 2018-19             |
|--------------|---------------------|---------------------|
| General Fund | See "FISCAL IMPACT" | See "FISCAL IMPACT" |

**SUMMARY:** This bill would amend Title 42 (Judiciary) providing for post-conviction DNA testing.

**ANALYSIS:** Senate Bill 916 would permit an individual convicted of a criminal offense in a commonwealth court to apply anytime for forensic Deoxyribonucleic Acid (DNA) testing on specific evidence related to the investigation or prosecution that resulted in his or her conviction, if the following conditions are met:

- The request for testing is a written motion, filed with the clerk of courts of the judicial district where the sentence was imposed; and
- The motion is timely to demonstrate innocence and not to delay the execution of a sentence or administration of justice.

If after review of the applicant's trial record, the court determines that there is no reasonable possibility that DNA testing would produce exculpatory evidence, the court may not order DNA testing for an applicant. If the court determines that the applicant has met the requirements for DNA testing, the court may require the commonwealth to prepare an inventory of evidence related to the case and serve a copy of the inventory to the prosecution, the applicant, the applicant's attorney and the court. The inventory may include a list of evidence collected and forensic testing previously done relating to the evidence and the names of agencies that conducted the forensic testing.

To the extent possible, the DNA testing must be conducted in a manner that ensures a portion of the sample is preserved for replication of testing. If the laboratory determines that it must consume the entirety of a sample during testing, the laboratory must inform the prosecution, the applicant and the applicant's attorney of its recommendation and obtain consent. Additionally, if the prosecution and the applicant do not consent, the court may issue any appropriate order before testing continues. If testing is performed by a private laboratory and a DNA database search is anticipated, the applicant would be required to ensure that the selected laboratory is accredited, pursuant to this act and that the testing may be entered into a Combined DNA Index System (CODIS). Any testing performed by the Pennsylvania State Police (PSP), must be conducted in accordance with the protocols and procedures established by the department.

## FISCAL NOTE

April 16, 2018

One year, beginning on the date on which the applicant is notified of the test results, the applicant would be permitted to petition the court for postconviction relief. However, if the DNA test identifies the DNA profile of the applicant on probative and inculpatory evidence, the court must dismiss the petition and may direct the Pennsylvania Board of Probation and Parole be notified of the test results or mandate that the applicant’s DNA profile be added to the commonwealth’s convicted offender database.

This act would be effective 60 days upon passage.

**FISCAL IMPACT:**

**Pennsylvania State Police (PSP)**

The bill provides that all individuals requesting a DNA test must cover the testing costs. However, if the inmate is indigent, then the costs would be covered by the commonwealth. PSP could incur a cost of approximately \$3.364 million for additional DNA testing/analysis. The estimate does not include any additional storage costs that may be require.

| <b>Estimated Costs of DNA Testing for Postconviction Evidence</b> |        |            |        |                     |       |                                       |
|---|--------|------------|--------|---------------------|-------|---------------------------------------|
| <b>Inmates</b>  | 48,438 |            |        |                     |       | <b>Cost of DNA Test/<br/>Analysis</b> |
| <b>Supervised Parolees</b>  | 42,057 | % Indigent |        | % Approved by Court |       | \$1,300                               |
| <b>Total</b>  | 90,495 | 26%        | 23,528 | 11%                 | 2,588 | \$3,364,400                           |

\*This estimate does not include all others that may request a DNA test, such as those who have already completed their sentencing. The \$1,300 estimated cost to conduct DNA testing and analysis is based on research conducted by GBO. These estimates have yet to be confirmed by PSP. The estimated number of inmates is based on a December 2017 Pennsylvania Department of Corrections report concerning inmate statistics, as well as the indigent population percentage (average reading level upper 8<sup>th</sup> grade). The estimated number of supervised parolees is based on a February 2018 monthly statistics report by the Pennsylvania Board of Probation and Parole.