



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536



BILL ANALYSIS

Telephone: (517) 373-5383  
Fax: (517) 373-1986  
TDD: (517) 373-0543

House Bill 5089 (Substitute S-1 as reported)  
House Bill 6092 (Substitute S-1 as reported)  
House Bill 6093 (as reported without amendment)  
Sponsor: Representative Paul Condino (H.B. 5089 & H.B. 6092)  
Representative Andy Coulouris (H.B. 6093)  
House Committee: Judiciary  
Senate Committee: Judiciary

### **CONTENT**

House Bill 5089 (S-1) would amend the Code of Criminal Procedure to extend from January 1, 2009, to January 1, 2012, the deadline for a defendant convicted of a felony at trial, who is serving a prison sentence for that felony, to petition the circuit court to order DNA testing of biological material identified during the investigation that led to his or her conviction, and for a new trial based on the results of that testing.

(Public Act 402 of 2000 amended the Code to establish procedures under which a person who was convicted of a felony before the Act's effective date (January 8, 2001) may petition for DNA testing and a new trial. Under that Act, a petition could not be filed after January 1, 2006. Public Act 4 of 2005 extended the deadline to January 1, 2009.)

House Bill 6092 (S-1) would amend the Michigan Penal Code to prohibit and prescribe a criminal penalty for intentionally making a material false statement in a petition for DNA testing of biological material and for a new trial based on the results of that testing. A violation would be a felony punishable by up to five years' imprisonment and/or a maximum fine of \$10,000. The court could order a term of imprisonment imposed for the violation to be served consecutively to any other term of imprisonment being served by the individual.

The bill is tie-barred to House Bill 5089.

House Bill 6093 would amend the Code of Criminal Procedure to include the offense proposed by House Bill 6092 (S-1) in the sentencing guidelines. The offense would be a Class E felony against the public trust with a statutory maximum sentence of five years' imprisonment.

The bill is tie-barred to House Bills 5089 and 6092.

MCL 770.16 (H.B. 5089)  
Proposed MCL 750.422a (H.B. 6092)  
MCL 777.16v (H.B. 6093)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

House Bill 5089 (S-1) would have an indeterminate impact based on the number of petitions, DNA tests, hearings, trials, and indigent counsel appointments that resulted from the bill. Tests of DNA ordered to be performed by the Department of State Police would

cost the Department \$105.17 per sample, not including overhead costs. Samples processed by a privately run lab would cost \$400 per sample.

House Bills 6092 (S-1) and 6093 would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many felons would be convicted of intentionally making a false statement in a petition to order DNA testing of evidence and a new trial based on that evidence. An offender convicted of the Class E offense under the bills would receive a sentencing guidelines minimum sentence range of 0-3 months to 24-38 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$32,000. Additional penal fine revenue would benefit public libraries.

Date Completed: 11-21-08

Fiscal Analyst: Bruce Baker  
Bill Bowerman  
Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.