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S.B. 156
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for S.B. 156's Bill Analysis](#)

Version: As Reported by House Criminal Justice

Primary Sponsor: Sen. Gavarone

Local Impact Statement Procedure Required: No

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Highlights

- The number of violations for county and municipal criminal justice systems to adjudicate is likely to be relatively small with any additional costs being minimal at most annually and potentially absorbed by utilizing existing staff and resources. Revenue in the form of court costs, fees, and fines may offset those costs to some degree.
- There may be a minimal at most annual gain in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Detailed Analysis

The bill enacts prohibitions under the new offense of “defrauding an alcohol, drug, or urine screening test,” that pertain to a specified conduct knowingly intended to defraud such a test. A violation of any of the prohibitions generally is a second degree misdemeanor, but is a first degree misdemeanor on a second or subsequent offense. When an offender violates the prohibition by defrauding a test administered as a condition of community control, the violation is a third degree felony.

The bill specifies a person can be prosecuted under any of the bill’s prohibitions, or under a related existing offense,¹ or under both the bill’s prohibitions and an existing offense, but the person may be convicted of only one. The table below summarizes the possible fine and

¹ The bill specifies the related existing offenses as: (1) tampering with evidence, a third degree felony, and (2) obstructing official business, generally a second degree misdemeanor.

term of incarceration for a second degree misdemeanor, a first degree misdemeanor, and a third degree felony under current law, which are unchanged by the bill.

Fines And Sentences for Certain Offenses Generally		
Classification	Fine	Possible Term of Incarceration
Misdemeanor 2 nd degree	Up to \$750	Jail, not more than 90 days
Misdemeanor 1 st degree	Up to \$1,000	Jail, not more than 180 days
Felony 3 rd degree	Up to \$10,000	9, 12, 18, 24, 30, or 36 months definite prison term

The bill requires a person to report knowledge or suspicion of certain specified violations to law enforcement authorities. The bill does not provide any penalty or sanction for failing to report that knowledge or suspicion.

Data are not available on the number of incidences of the use of synthetic or other urine to defraud a test, nor on the number of violations in states that have previously passed similar legislation.² That said, as described in more detail below, the number of violations resulting in a criminal case is expected to be relatively small. Any additional costs for county or municipal criminal justice systems to prosecute, adjudicate, and sanction offenders is likely to be minimal at most annually, and potentially absorbed by utilizing existing staff and resources. Money collected from violators (fines, court costs, and fees) may offset those costs to some degree. The state may also gain a minimal at most amount of court cost revenue annually. In the case of a misdemeanor, the state collects a \$29 court cost from the violator divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020).

There are at least four populations generally affected by the bill's prohibitions, as described below: (1) businesses, (2) individuals undergoing tests for employment, (3) individuals undergoing tests by order of a court, and (4) individuals selling or distributing urine to individuals undergoing tests.

- Businesses generally are likely to comply rather than face criminal prosecution, and continue to manufacture, market, sell, and distribute their products explicitly for other purposes. Additionally, the bill creates a rebuttable presumption that a bulk manufacturer of synthetic urine³ does not know or have reasonable cause to believe that the synthetic urine will be used for an illegal purpose.
- Those undergoing a test for employment are not likely to be discovered in defrauding conduct, as testing is unlikely to detect synthetic/another person's urine, and the

² Alabama, Arizona, Arkansas, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Mississippi, Missouri, New Hampshire, North Carolina, Oklahoma, Tennessee, Utah, West Virginia, and Wisconsin.

³ As defined by the bill, a bulk manufacturer of synthetic urine is a business that manufactures or causes the manufacture of at least 15,000 gallons of synthetic urine on an annual basis.

administrator of the test is not required to be present for collection of the sample. Therefore, while violations will occur, they will not be easily discovered, and, therefore, minimally reported.

- For individuals undergoing drug tests by order of a court, while they are more likely to be discovered, and therefore charged with a violation, the use of synthetic urine can be charged as tampering with evidence, a third degree felony under current law, and is already subject to other consequences of violating their terms of release into the community.
- Those individuals selling or distributing their own urine or the urine of another are more likely to be discovered and subsequently charged with a violation in the circumstance described in the preceding dot point and can be charged with obstructing official business, a second degree misdemeanor under current law, or other similar offenses.