

**LEGISLATIVE BUDGET BOARD  
Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**February 27, 2023**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB178** by Murr (Relating to testing possible controlled substance evidence for fentanyl.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB178, As Introduced : a negative impact of (\$17,777,699) through the biennium ending August 31, 2025.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<i>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</i>
2024	(\$10,173,337)
2025	(\$7,604,362)
2026	(\$7,622,114)
2027	(\$7,640,370)
2028	(\$7,659,186)

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<i>Probable (Cost) from General Revenue Fund 1</i>	<i>Change in Number of State Employees from FY 2023</i>
2024	(\$10,173,337)	56.0
2025	(\$7,604,362)	56.0
2026	(\$7,622,114)	56.0
2027	(\$7,640,370)	56.0
2028	(\$7,659,186)	56.0

**Fiscal Analysis**

The bill would amend the Code of Criminal Procedure to require crime laboratories to test submitted evidence that may be a controlled substance for the presence of fentanyl when it is reasonably possible that the substance contains fentanyl. The bill would require that the test must follow validated laboratory procedures and sampling protocols to determine the presence of fentanyl.

## Methodology

The Department of Public Safety (DPS) assumes the term “reasonably possible” would apply to all items that are submitted to the agency for suspicion of being a controlled substance that are not plant material or edibles. The agency's crime laboratory reported no analysis on 31,554 drug evidence cases in fiscal year 2022 that would have required a test under the provisions of the bill. For the purpose of this analysis, it is assumed that the number of additional cases to be tested would continue at 2022 levels. According to DPS, a forensic scientist can work approximately 70 cases per month, or 840 per year.

Based upon information provided by DPS, this analysis assumes it would require 56.0 additional FTEs to implement the provisions of the bill including 38.0 Forensic Scientists (31,554 cases per year/840 cases per FTE per year), 2.0 Laboratory Technicians, 4.0 Evidence Technicians, 4.0 Section Supervisors, 2.0 Trainers, 1.0 Quality Assurance Specialist, 1.0 Auditor, 1.0 Laboratory Administrative Assistant, 1.0 Program Specialist, 1.0 Assistant Manager, and 1.0 Laboratory Manager position. This analysis includes a total of \$5,265,944 in General Revenue in fiscal year 2024 and \$5,541,377 in fiscal year 2025 for salary and benefits.

Other costs in fiscal year 2024 include rent, consumable supplies, other operating expenses, and capital expenditures that would total \$4,907,393. That includes onetime expenditures of \$1,800,000 for 15 gas chromatography mass spectrometers (\$120,000 each), \$1,000,000 to outfit leased space for testing and evidence storage, and \$61,600 for IT equipment. Other costs for fiscal year 2025 are estimated to be \$2,062,985.

## Technology

DPS anticipates that it would need to purchase 15 gas chromatography mass spectrometers at \$120,000 each. This analysis assumes all 56.0 FTEs will require a desktop computer at \$1,100 each.

## Local Government Impact

The bill would require all public and private crime laboratories that conduct forensic analysis to test submitted evidence that may be a controlled substance for the presence of fentanyl when it is reasonably possible that the substance contains fentanyl. The fiscal implications of the bill on local units of government cannot be determined at this time since the number of additional tests that may be required at other public and private crime laboratories is unknown.

**Source Agencies:** 405 Department of Public Safety

**LBB Staff:** JMc, DDel, KFB, DA