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PREPARED BY: Doug Nichols
DATE PREPARED: February 2, 2011
PHONE: 471-0052

LB 226

Revision: 00

FISCAL NOTE

LEGISLATIVE FISCAL ANALYST ESTIMATE

ESTIMATE OF FISCAL IMPACT – STATE AGENCIES *				
	FY 2011-12		FY 2012-13	
	EXPENDITURES	REVENUE	EXPENDITURES	REVENUE
GENERAL FUNDS	See Below			
CASH FUNDS				
FEDERAL FUNDS				
OTHER FUNDS				
TOTAL FUNDS				

*Does not include any impact on political subdivisions. See narrative for political subdivision estimates.

This bill would create the offense of assault with a bodily fluid against a public safety officer.

The Nebraska Department of Correctional Services (NDCS) states that the main cost of this bill would be the collecting and testing of the body fluid. NDCS estimates 20-30 inmates could be tested per year at a cost of \$50-\$120 per inmate (\$1,000-\$3,600 per year). The basic test with no follow-up is \$50. If a follow-up test is needed, the costs can increase to \$120. NDCS states that they will absorb this additional cost. Their response follows:

LB 226 provides that any person who knowingly and intentionally strikes any public safety officer with any bodily fluid, or who throws, propels, expels, or emits any bodily fluid in the direction of any public safety officer is guilty of the crime of assault with a bodily fluid against a public safety officer.

The offense is a Class I misdemeanor (0-1 yr imprisonment) unless the person committing the offense knew the source of the bodily fluid was infected with human immunodeficiency virus (HIV), acquired immunodeficiency syndrome virus (AIDS), hepatitis B virus, or hepatitis C virus at the time the offense was committed, in which case the offense is a Class IIIA felony (0-5 years imprisonment). Any sentence under this section shall be served consecutively.

The bill also provides that, upon showing of probable cause, a judge shall issue an order or search warrant authorizing the collection of any evidence (including bodily fluids or medical records, or medical testing) that may assist with determining whether the person committing the offense or the person from whom the bodily fluid was obtained is infected with HIV, AIDS, Hepatitis B, or hepatitis C.

The definition of a public safety officer under this bill includes employees of the Nebraska Department of Correctional Services (NDCS).

Currently, the offenses of assault on an officer involve causing bodily injury. The offense of assault in the 2nd degree can include striking or wounding another while in legal custody of the Department of Correctional Services. The offense of assault in the 3rd degree can include threatening another in a menacing manner, (penalty is a Class I misdemeanor). There is no current provision in statute providing for the collection of evidence as above.

Between January 1, 2007 and December 31, 2010 there were 224 internal misconduct reports filed involving instances in the NDCS of assault by throwing liquid, urine, waste, blood, chemicals, and spitting involving 71 offenders.

The fiscal note assumes the main fiscal impact of this bill to NDCS will be the collection and testing of evidence from an inmate after an assault with a bodily fluid and after a judge's authorization for collection, since the penalty is a misdemeanor unless the person knew the source of the fluids was infected as described above. NDCS assumes there could be between 20 and 30 inmates tested per year, at an estimated testing cost of \$50-\$120 per inmate, depending on what follow tests were required. Any inmate with tests over three months old at the time of the incident would be re-tested. NDCS would absorb these costs.

DEPARTMENT OF ADMINISTRATIVE SERVICES

REVIEWED BY	Joe Wilcox	2/2/11	PHONE 471-2526
COMMENTS CORRECTIONAL SERVICES – No basis to dispute agency analysis.			

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FEB - 2 2011

LEGISLATIVE FISCAL

Please complete ALL (5) blanks in the first three lines.

2011

LB 226 FISCAL NOTE

State Agency OR Political Subdivision Name: (2) DEPARTMENT OF CORRECTIONAL SERVICES

Prepared by: (3) Kate Morris

Date Prepared: (4)

2/1/2011

Phone: (5) 479-5702

ESTIMATE PROVIDED BY STATE AGENCY OR POLITICAL SUBDIVISION

	<u>FY 2011-2012</u>		<u>FY 2012-2013</u>	
	<u>EXPENDITURES</u>	<u>REVENUE</u>	<u>EXPENDITURES</u>	<u>REVENUE</u>
GENERAL FUNDS	see below	_____	_____	_____
CASH FUNDS	_____	_____	_____	_____
FEDERAL FUNDS	_____	_____	_____	_____
OTHER FUNDS	_____	_____	_____	_____
TOTAL FUNDS	_____	_____	_____	_____

Return by date specified or 72 hours prior to public hearing, whichever is earlier.

Explanation of Estimate:

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MAJOR OBJECTS OF EXPENDITURE

Personal Services:

POSITION TITLE	NUMBER OF POSITIONS		2011 -2012	2012-2013
	11-12	12-13	EXPENDITURES	EXPENDITURES
Benefits				
Operating				
Travel				
Capital outlay				
Aid				
Other				
Capital improvements				
TOTAL				