

FILED MAR 17 '03

SENATE FILE 399
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1024)

Passed Senate, Date Passed 4/7/03 Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a criminalistics laboratory surcharge and
2 creating a criminalistics laboratory fund, making an
3 appropriation of surcharge moneys, and making related changes.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 399

1 DIVISION I

2 Section 1. Section 602.8108, Code 2003, is amended by
3 adding the following new subsection:

4 NEW SUBSECTION. 7. A criminalistics laboratory fund is
5 created in the state treasury under the control of the
6 department of public safety. The fund shall consist of
7 appropriations made to the fund and transfers of interest,
8 earnings, and moneys required to be collected for deposit in
9 the fund, including moneys received from the criminalistics
10 laboratory surcharge provided in section 911.3. All moneys in
11 the fund are appropriated to the department of public safety
12 for use by the department in criminalistics laboratory
13 equipment purchasing, maintenance, depreciation, and training.
14 Any balance in the fund on June 30 of any fiscal year shall
15 not revert to any other fund of the state but shall remain
16 available for the purposes described in this subsection.

17 Sec. 2. Section 911.3, Code 2003, is amended by striking
18 the section and inserting in lieu thereof the following:

19 911.3 ADDITIONAL SURCHARGES.

20 1. In addition to the surcharge assessed in section 911.2,
21 the clerk of the district court shall assess the following
22 surcharges when applicable:

23 a. CRIMINALISTICS LABORATORY SURCHARGE. A surcharge equal
24 to two percent of any fine or forfeiture imposed for a
25 violation of any state law or city or county ordinance, except
26 an ordinance regulating the parking of motor vehicles. The
27 clerk shall remit all moneys received from the surcharge to
28 the treasurer of state for deposit in the criminalistics
29 laboratory fund as provided in section 602.8108, subsection 7.

30 b. DRUG ABUSE RESISTANCE EDUCATION SURCHARGE. A surcharge
31 in the amount of ten dollars if the violation arose out of a
32 violation of an offense provided for in chapter 321J or
33 chapter 124, division IV. The clerk shall remit all moneys
34 received from the surcharge to the treasurer of state for
35 deposit as provided in section 602.8108, subsection 3.

1 c. LAW ENFORCEMENT INITIATIVE SURCHARGE. A surcharge in
2 the amount of one hundred twenty-five dollars if an
3 adjudication of guilt or a deferred judgment has been entered
4 for a criminal violation under any of the following:

- 5 (1) Chapter 124, 155A, 453B, 713, 714, 715A, or 716.
- 6 (2) Section 719.8, 725.1, 725.2, or 725.3.

7 The clerk shall remit all moneys received from the
8 surcharge to the treasurer of state for deposit as provided in
9 section 602.8108, subsection 4.

10 2. The surcharges assessed in this section are subject to
11 the provisions of chapter 909 governing the payment and
12 collection of fines, as provided in section 909.8.

13 DIVISION II

14 Sec. 3. Section 331.302, subsection 2, Code 2003, is
15 amended to read as follows:

16 2. A county shall not provide a penalty in excess of a
17 five hundred dollar fine or in excess of thirty days
18 imprisonment for the violation of an ordinance. ~~The-criminal~~
19 ~~penalty~~ A surcharge required by section 911.2 or 911.3 shall
20 be added to a county fine and is not a part of the county's
21 penalty.

22 Sec. 4. Section 364.3, subsection 2, Code 2003, is amended
23 to read as follows:

24 2. A city shall not provide a penalty in excess of a five
25 hundred dollar fine or in excess of thirty days imprisonment
26 for the violation of an ordinance. An amount equal to ten
27 percent of all fines collected by cities shall be deposited in
28 the account established in section 602.8108. However, one
29 hundred percent of all fines collected by a city pursuant to
30 section 321.236, subsection 1, shall be retained by the city.
31 ~~The-criminal-penalty~~ A surcharge required by section 911.2 or
32 911.3 shall be added to a city fine and is not a part of the
33 city's penalty.

34 Sec. 5. Section 602.8102, subsection 135A, Code 2003, is
35 amended to read as follows:

1 135A. Assess the ~~drug-abuse-resistance-education-surcharge~~
2 surcharges as provided by section ~~911.2~~ 911.3.

3 Sec. 6. Section 602.8102, subsection 135B, Code 2003, is
4 amended by striking the subsection.

5 Sec. 7. Section 602.8107, subsection 4, unnumbered
6 paragraph 2, Code 2003, is amended to read as follows:

7 This subsection does not apply to amounts collected for
8 victim restitution, the victim compensation fund, ~~criminal~~
9 ~~penalty-surcharge, law-enforcement-initiative-surcharge~~ a
10 surcharge collected pursuant to section 911.2 or 911.3,
11 amounts collected as a result of procedures initiated under
12 subsection 5 or under section 421.17, subsection 25, or
13 sheriff's room and board fees.

14 Sec. 8. Section 602.8108, subsection 2, Code 2003, is
15 amended to read as follows:

16 2. Except as otherwise provided, the clerk of the district
17 court shall report and submit to the state court
18 administrator, not later than the fifteenth day of each month,
19 the fines and fees received during the preceding calendar
20 month. Except as otherwise provided in ~~subsections-4-and-5~~
21 this section, the state court administrator shall deposit the
22 amounts received with the treasurer of state for deposit in
23 the general fund of the state. The state court administrator
24 shall report to the legislative fiscal bureau within thirty
25 days of the beginning of each fiscal quarter the amount
26 received during the previous quarter in the account
27 established under this section.

28 Sec. 9. Section 602.8108, subsection 3, paragraph c, Code
29 2003, is amended to read as follows:

30 c. Notwithstanding provisions of this subsection to the
31 contrary, all moneys collected from the drug abuse resistance
32 education surcharge provided in section ~~911.2~~ 911.3 shall be
33 remitted to the treasurer of state for deposit in the general
34 fund of the state and the amount deposited is appropriated to
35 the governor's office of drug control policy for use by the

1 drug abuse resistance education program and other programs
2 directed for a similar purpose.

3 Sec. 10. Section 805.8, subsection 1, Code 2003, is
4 amended to read as follows:

5 1. APPLICATION. Except as otherwise indicated, violations
6 of sections of the Code specified in sections 805.8A, 805.8B,
7 and 805.8C are scheduled violations, and the scheduled fine
8 for each of those violations is as provided in those sections,
9 whether the violation is of state law or of a county or city
10 ordinance. ~~The criminal penalty~~ A surcharge required by
11 section 911.2 or 911.3 shall be added to the scheduled fine.

12 Sec. 11. Section 805.8C, subsection 3, paragraph a, Code
13 2003, is amended to read as follows:

14 a. For violations of section 142B.6, the scheduled fine is
15 twenty-five dollars, and is a civil penalty, and ~~the criminal~~
16 ~~penalty~~ a surcharge under section 911.2 or 911.3 shall not be
17 added to the penalty, and the court costs pursuant to section
18 805.9, subsection 6, shall not be imposed. If the civil
19 penalty assessed for a violation of section 142B.6 is not paid
20 in a timely manner, a citation shall be issued for the
21 violation in the manner provided in section 804.1. However, a
22 person under age eighteen shall not be detained in a secure
23 facility for failure to pay the civil penalty. The
24 complainant shall not be charged a filing fee.

25 Sec. 12. Section 805.8C, subsection 3, paragraph c,
26 unnumbered paragraph 1, Code 2003, is amended to read as
27 follows:

28 For violations of section 453A.2, subsection 2, the
29 scheduled fine is as follows and is a civil penalty, and ~~the~~
30 ~~criminal penalty~~ a surcharge under section 911.2 or 911.3
31 shall not be added to the penalty, and the court costs
32 pursuant to section 805.9, subsection 6, shall not be imposed:

33 Sec. 13. Section 909.10, subsection 1, Code 2003, is
34 amended to read as follows:

35 1. As used in this section, unless the context otherwise

1 requires, "delinquent amounts" means a fine, court-imposed
2 court costs in a criminal proceeding, or ~~criminal~~ surcharge
3 imposed pursuant to section 911.2 or 911.3, which remains
4 unpaid after two years from the date that the fine, court
5 costs, or surcharge was imposed, and which is not collected by
6 the county attorney pursuant to section 602.8107. However, if
7 the fine may be paid in installments pursuant to section
8 909.3, the fine is not a delinquent amount unless the
9 installment remains unpaid after two years from the date the
10 installment was due.

11 Sec. 14. Section 911.2, unnumbered paragraph 1, Code 2003,
12 is amended to read as follows:

13 When a court imposes a fine or forfeiture for a violation
14 of a state law, or of a city or county ordinance except an
15 ordinance regulating the parking of motor vehicles, the court
16 shall assess an additional penalty in the form of a surcharge
17 equal to thirty percent of the fine or forfeiture imposed. An
18 ~~additional-drug-abuse-resistance-education-surcharge-of-ten~~
19 ~~dollars-shall-be-assessed-by-the-clerk-of-the-district-court~~
20 ~~if-the-violation-arose-out-of-a-violation-of-an-offense~~
21 ~~provided-for-in-chapter-321J-or-chapter-1247-division-IV.~~ In
22 the event of multiple offenses, the surcharge shall be based
23 upon the total amount of fines or forfeitures imposed for all
24 offenses. When a fine or forfeiture is suspended in whole or
25 in part, the surcharge shall be reduced in proportion to the
26 amount suspended.

27 EXPLANATION

28 This bill establishes a criminalistics laboratory surcharge
29 and creates a criminalistics laboratory fund.

30 DIVISION I. The bill provides that a criminalistics
31 laboratory surcharge be assessed that is equal to 2 percent of
32 any fine or forfeiture imposed for a violation of any state
33 law or city or county ordinance, except a parking violation.
34 The bill provides that a criminalistics laboratory surcharge
35 be collected by the clerk of court and remitted to the

1 treasurer of state for deposit in the criminalistics
2 laboratory fund established in the state treasury.

3 The bill provides that the criminalistics laboratory fund
4 be under the control of the department of public safety and
5 that any moneys in the fund be appropriated to the department
6 for criminalistics laboratory equipment purchase, maintenance,
7 depreciation, and training.

8 DIVISION II. The bill combines the criminalistics
9 laboratory surcharge into one Code section with most of the
10 existing criminal surcharges in the Code, except the general
11 criminal penalty surcharge. This division of the bill amends
12 various Code sections to conform with combining the surcharges
13 into one Code section.

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SF 399- Criminal Surcharge for DCI (LSB 1060 SV)

Analyst: Jennifer Dean (Phone: (515) 281-7846) (jennifer.dean@legis.state.ia.us)

Fiscal Note Version — New

Requested by Senator Lamberti

Description

Senate File 399 establishes a criminalistics laboratory surcharge and creates a Criminalistics Laboratory Fund, appropriates surcharge moneys, and makes other related changes.

Assumptions

1. In calendar year 2002, \$48.0 million in State fines and forfeited bail was imposed and \$9.0 million was imposed in county/local fines. Of these amounts, approximately \$7,000 would have been collected for parking fines. The total revenue for calendar year 2002 would be \$57.0 million.
2. The collection rate is based on total fines imposed during calendar year 2000 and collected through 2002. The average collection rate is 70.0%.
3. The 2.0% surcharge that would go to the Division of Criminal Investigation for the imposed crime lab surcharge would be approximately \$1.1 million. The Department would realize approximately \$800,000 based on the 70.0% collection rate. First-year revenues may be understated based on the collection of misdemeanor fines. The surcharge amount collected can vary.
4. The law will become effective July 1, 2003. A lag effect of six months is assumed from the law's effective date. An additional lag is assumed on the first full-year of collection since the surcharge is a mixture of citations, felonies, and misdemeanors. The first full-year of collection does not occur until the fourth year.
5. The one-time cost for the Judicial Branch to program a new financial code in the Iowa Court Information System is approximately \$5,000.
6. In FY 2002, Clerks of Court processed fee/fine payments in approximately 671,000 criminal cases not including parking violations. The time per case would be two minutes resulting in Clerks devoting approximately 1.3 million minutes at \$0.24 a minute for a total cost of \$321,000 to process the new surcharge. This would require 10.7 additional FTE positions for the Clerk of Court offices. The salary and benefits cost for one Judicial Clerk is \$30,000 annually.
7. The impact on persons unable to meet the additional financial burden would likely result in additional contempt of court charges. The approximate cost for one contempt of court charge is \$250.
8. The estimated cost for repair, replacement, and updating of lab equipment for five years is \$4.4 million. This assumes that all equipment will be replaced every five years with approximately one-fifth of the equipment being replaced each year. This also assumes that crime scene vans would be replaced once every five years on a staggered schedule. Training and software updates would be done on an annual basis. The first year of maintenance agreements would be covered by warranty, and the Fund would cover the second and subsequent years. Staff computers would be replaced and upgraded at the same time rather than on a staggered basis, due to compatibility issues. The ongoing annual cost would be \$918,000.

Fiscal Impact

The estimated FY 2004 General Fund impact of SF 399 to the Judicial Department would be \$326,000 for 10.7 FTE positions. The FY 2005 and subsequent years cost would be approximately \$321,000.

The Department of Public Safety anticipates replacing one-fifth of all laboratory equipment every five years from the Criminalistics Laboratory Revolving Fund. The estimated expenditures for the Department are \$4.4 million over five years. The annual cost for replacement and repair of equipment for the first year is \$768,000 and the second year and ongoing years is \$918,000.

The estimated revenues generated in SF 399 are not sufficient to cover all of the Department's equipment replacement and repair costs over the five-year period.

The table below shows the projected funding shortfall for each year.

	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>5-Year Total</u>
REVENUE						
<i>Criminalistics Laboratory Fund</i>	\$ 257,000	\$ 600,000	\$ 774,000	\$ 800,000	\$ 800,000	\$ 3,231,000
EXPENDITURES						
Yearly Repair and Update Costs	173,000	173,000	173,000	173,000	173,000	865,000
Maintenance Agreements	0	150,000	150,000	150,000	150,000	600,000
Yearly Instrument Replacement Cost	66,000	66,000	66,000	66,000	66,000	330,000
5-year equipment replacement	<u>529,000</u>	<u>529,000</u>	<u>529,000</u>	<u>529,000</u>	<u>529,000</u>	<u>2,645,000</u>
Total	<u>\$ 768,000</u>	<u>\$ 918,000</u>	<u>\$ 918,000</u>	<u>\$ 918,000</u>	<u>\$ 918,000</u>	<u>\$ 4,440,000</u>
SHORTFALL	<u>\$ -511,000</u>	<u>\$ -318,000</u>	<u>\$ -144,000</u>	<u>\$ -118,000</u>	<u>\$ -118,000</u>	<u>\$ -1,209,000</u>

Sources

Judicial Branch
Department of Public Safety
State Public Defender
Department of Human Rights, Criminal Juvenile and Justice Planning

/s/ Dennis C Prouty

March 19, 2003

SENATE FILE 399

H-8022

1 Amend Senate File 399, as passed by the Senate, as
2 follows:

3 1. Page 1, by striking line 1, and inserting the
4 following:

5 "Sec. _____. Section 602.8108, subsection 3,
6 paragraph b, Code Supplement 2003, is amended to read
7 as follows:

8 b. Of the amount received from the clerk, the
9 state court administrator shall allocate ~~eighteen~~ six
10 percent to be deposited in the criminalistics
11 laboratory fund established in subsection 7, seventeen
12 percent to be deposited in the victim compensation
13 fund established in section 915.94, and ~~eighty-two~~
14 seventy-seven percent to be deposited in the general
15 fund."

16 2. Page 1, line 2, by inserting after the word
17 "Code" the following: "Supplement".

18 3. Page 1, by striking lines 9 and 10 and
19 inserting the following: "the fund, including moneys
20 received from the criminal penalty surcharge pursuant
21 to subsection 3, paragraph "b". All moneys in".

22 4. By striking page 1, line 17, through page 5,
23 line 26, and inserting the following:

24 "Sec. _____. Section 911.2, unnumbered paragraph 1,
25 Code 2003, is amended to read as follows:

26 When a court imposes a fine or forfeiture for a
27 violation of a state law, or of a city or county
28 ordinance except an ordinance regulating the parking
29 of motor vehicles, the court shall assess an
30 additional penalty in the form of a surcharge equal to
31 ~~thirty~~ thirty-two percent of the fine or forfeiture
32 imposed. An additional drug abuse resistance
33 education surcharge of ten dollars shall be assessed
34 by the clerk of the district court if the violation
35 arose out of a violation of an offense provided for in
36 chapter 321J or chapter 124, division IV. In the
37 event of multiple offenses, the surcharge shall be
38 based upon the total amount of fines or forfeitures
39 imposed for all offenses. When a fine or forfeiture
40 is suspended in whole or in part, the surcharge shall
41 be reduced in proportion to the amount suspended."

42 5. Title page, by striking line 1, and inserting
43 the following: "An Act".

44 6. Title page, line 2, by inserting after the
45 word "fund," the following: "increasing the criminal
46 penalty surcharge,".

47 7. By renumbering as necessary.

By COMMITTEE ON JUDICIARY
MADDOX of Polk, Chairperson

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

SF 399 - Criminal Surcharge for DCI (LSB 1060 SV.1)

Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)

Fiscal Note Version — SF 399 As Amended by H-8022

Description

Senate File 399 as amended by H-8022 increases the criminal surcharge from 30.0% to 32.0% and creates a Criminalistics Laboratory Fund, appropriates surcharge moneys, and makes other related changes.

Assumptions

1. In calendar year 2003, \$47.3 million in State fines and forfeited bail were imposed and \$8.8 million in county and local government fines were imposed. The total revenue for calendar year 2003 was \$56.1 million. Parking violation revenue is not included in the estimate.
2. The cumulative collection rate for scheduled traffic fines in year one is 72.2%, year two is 82.2%, and year three and ongoing years is 95.0%. The cumulative collection rate for non-schedule traffic fines in year one is 28.8%, year two is 47.8%, and year three and ongoing years is 62.8%.
3. The law will become effective July 1, 2004. A lag effect of six months is assumed from the law's effective date. An additional lag is assumed on the first full year of collection since the surcharge is a mixture of citations, felonies, and misdemeanors. The first full year of collection does not occur until the fourth year due to the lag applied in year one, the application of a three-year collection rate, and the case processing time of non-scheduled traffic violations.
4. The one-time cost for the Judicial Branch to program a new financial code in the Iowa Court Information System is approximately \$5,000.
5. The impact on persons unable to meet the additional financial burden would likely result in additional contempt of court charges. The approximate cost for one contempt of court charge is \$250.
6. The estimated cost for repair, replacement, and updating of lab equipment over a five-year period is \$4.4 million. This assumes that all equipment will be replaced every five years with approximately one-fifth of the equipment being replaced each year. This also assumes that crime scene vans would be replaced once every five years on a staggered schedule. Training and software updates would be done on an annual basis. The first year of maintenance agreements would be covered by warranty, and the Fund would cover the second and subsequent years. Staff computers would be replaced and upgraded at the same time rather than on a staggered basis, due to compatibility issues. The annual cost for replacement and repair of equipment for the first year is estimated to be \$768,000 and the second year and ongoing years is estimated to be \$918,000.
7. Under current law, of the revenue received from the 30.0% criminal surcharge, the State share is 95.0% and the counties/local governments receive 5.0%. Of the 95.0% State share, 18.0% is distributed to the Victim Compensation Fund and 82.0% is deposited in the General Fund.
8. House Amendment 8022 adds a DCI Crime Lab Fund to the language in Section 602.8108(3), Code of Iowa. Ninety-five percent of the revenue is the State's share and 5.0% is received by counties/local governments. Of the 95.0% State share, 6.0% is distributed to the DCI Crime Lab Fund, 17.0% to the Victim Compensation Fund, and 77.0% is deposited in the General Fund.

Fiscal Impact

Senate File 399 as amended by H-8022 increases revenue to the General Fund, Victim Compensation Fund, and to county and local governments as well as creates a new fund for the Division of Criminal Investigation. The chart below shows the increased revenue anticipated to be received from the surcharge by fiscal year:

Increased Revenue from the 32.0% Criminal Surcharge

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>
Total State General Fund	\$ 7,000	\$ 11,000	\$ 14,000	\$ 16,000	\$ 16,000
Total Victim Compensation Fund	7,000	11,000	14,000	16,000	16,000
Total Criminalistics Laboratory Fund	352,000	548,000	652,000	757,000	757,000
Total County/Local	19,000	30,000	36,000	42,000	42,000
Total New Revenue Generated	<u>\$ 385,000</u>	<u>\$ 600,000</u>	<u>\$ 716,000</u>	<u>\$ 831,000</u>	<u>\$ 831,000</u>

The table below compares estimated new revenues under SF 399 as amended by H-8022 to the anticipated expenses of the crime lab over a five-year period.

	<u>FY 2005</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008</u>	<u>FY 2009</u>	<u>5-Year Total</u>
REVENUE						
Criminalistics Laboratory Fund	\$ 352,000	\$ 548,000	\$ 652,000	\$ 757,000	\$ 757,000	\$ 3,066,000
EXPENDITURES						
Yearly Repair and Update Costs	173,000	173,000	173,000	173,000	173,000	865,000
Maintenance Agreements	0	150,000	150,000	150,000	150,000	600,000
Yearly Instrument Replacement Cost	66,000	66,000	66,000	66,000	66,000	330,000
5-year equipment replacement	529,000	529,000	529,000	529,000	529,000	2,645,000
Total	<u>\$ 768,000</u>	<u>\$ 918,000</u>	<u>\$ 918,000</u>	<u>\$ 918,000</u>	<u>\$ 918,000</u>	<u>\$ 4,440,000</u>
REVENUE SHORTFALL	<u>\$ - 416,000</u>	<u>\$ - 370,000</u>	<u>\$ - 266,000</u>	<u>\$ - 161,000</u>	<u>\$ - 161,000</u>	<u>\$ - 1,374,000</u>

Based on the estimated revenues and expenditures for the Criminalistics Laboratory Fund over a five-year period, the estimated shortfall is \$1.4 million.

Sources

Judicial Branch
Department of Public Safety
State Public Defender
Department of Human Rights, Criminal Juvenile and Justice Planning Division

Dennis C Prouty

February 25, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Lamberti
Larson
Quirmbach

Succeeded By
SF/HF 399 SSB 1024

SENATE/HOUSE FILE Judiciary
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a criminalistics laboratory surcharge and
2 creating a criminalistics laboratory fund, making an
3 appropriation of surcharge moneys, and making related changes.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

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2 Section 1. Section 602.8108, Code 2003, is amended by
3 adding the following new subsection:

4 NEW SUBSECTION. 7. A criminalistics laboratory fund is
5 created in the state treasury under the control of the
6 department of public safety. The fund shall consist of
7 appropriations made to the fund and transfers of interest,
8 earnings, and moneys required to be collected for deposit in
9 the fund, including moneys received from the criminalistics
10 laboratory surcharge provided in section 911.3. All moneys in
11 the fund are appropriated to the department of public safety
12 for use by the department in criminalistics laboratory
13 equipment purchasing, maintenance, depreciation, and training.
14 Any balance in the fund on June 30 of any fiscal year shall
15 not revert to any other fund of the state but shall remain
16 available for the purposes described in this subsection.

17 Sec. 2. Section 911.3, Code 2003, is amended by striking
18 the section and inserting in lieu thereof the following:

19 911.3 ADDITIONAL SURCHARGES.

20 1. In addition to the surcharge assessed in section 911.2,
21 the clerk of the district court shall assess the following
22 surcharges when applicable:

23 a. CRIMINALISTICS LABORATORY SURCHARGE. A surcharge equal
24 to two percent of any fine or forfeiture imposed for a
25 violation of any state law or city or county ordinance, except
26 an ordinance regulating the parking of motor vehicles. The
27 clerk shall remit all moneys received from the surcharge to
28 the treasurer of state for deposit in the criminalistics
29 laboratory fund as provided in section 602.8108, subsection 7.

30 b. DRUG ABUSE RESISTANCE EDUCATION SURCHARGE. A surcharge
31 in the amount of ten dollars if the violation arose out of a
32 violation of an offense provided for in chapter 321J or
33 chapter 124, division IV. The clerk shall remit all moneys
34 received from the surcharge to the treasurer of state for
35 deposit as provided in section 602.8108, subsection 3.

1 c. LAW ENFORCEMENT INITIATIVE SURCHARGE. A surcharge in
2 the amount of one hundred twenty-five dollars if an
3 adjudication of guilt or a deferred judgment has been entered
4 for a criminal violation under any of the following:

5 (1) Chapter 124, 155A, 453B, 713, 714, 715A, or 716.

6 (2) Section 719.8, 725.1, 725.2, or 725.3.

7 The clerk shall remit all moneys received from the
8 surcharge to the treasurer of state for deposit as provided in
9 section 602.8108, subsection 4.

10 2. The surcharges assessed in this section are subject to
11 the provisions of chapter 909 governing the payment and
12 collection of fines, as provided in section 909.8.

13 DIVISION II

14 Sec. 3. Section 331.302, subsection 2, Code 2003, is
15 amended to read as follows:

16 2. A county shall not provide a penalty in excess of a
17 five hundred dollar fine or in excess of thirty days
18 imprisonment for the violation of an ordinance. ~~The-criminal~~
19 ~~penalty~~ A surcharge required by section 911.2 or 911.3 shall
20 be added to a county fine and is not a part of the county's
21 penalty.

22 Sec. 4. Section 364.3, subsection 2, Code 2003, is amended
23 to read as follows:

24 2. A city shall not provide a penalty in excess of a five
25 hundred dollar fine or in excess of thirty days imprisonment
26 for the violation of an ordinance. An amount equal to ten
27 percent of all fines collected by cities shall be deposited in
28 the account established in section 602.8108. However, one
29 hundred percent of all fines collected by a city pursuant to
30 section 321.236, subsection 1, shall be retained by the city.
31 ~~The-criminal-penalty~~ A surcharge required by section 911.2 or
32 911.3 shall be added to a city fine and is not a part of the
33 city's penalty.

34 Sec. 5. Section 602.8102, subsection 135A, Code 2003, is
35 amended to read as follows:

1 135A. Assess the ~~drug-abuse-resistance-education-surcharge~~
2 surcharges as provided by section ~~911.2~~ 911.3.

3 Sec. 6. Section 602.8102, subsection 135B, Code 2003, is
4 amended by striking the subsection.

5 Sec. 7. Section 602.8107, subsection 4, unnumbered
6 paragraph 2, Code 2003, is amended to read as follows:

7 This subsection does not apply to amounts collected for
8 victim restitution, the victim compensation fund, ~~criminal~~
9 ~~penalty-surcharge, law-enforcement-initiative-surcharge a~~
10 surcharge collected pursuant to section 911.2 or 911.3,
11 amounts collected as a result of procedures initiated under
12 subsection 5 or under section 421.17, subsection 25, or
13 sheriff's room and board fees.

14 Sec. 8. Section 602.8108, subsection 2, Code 2003, is
15 amended to read as follows:

16 2. Except as otherwise provided, the clerk of the district
17 court shall report and submit to the state court
18 administrator, not later than the fifteenth day of each month,
19 the fines and fees received during the preceding calendar
20 month. Except as otherwise provided in ~~subsections-4-and-5~~
21 this section, the state court administrator shall deposit the
22 amounts received with the treasurer of state for deposit in
23 the general fund of the state. The state court administrator
24 shall report to the legislative fiscal bureau within thirty
25 days of the beginning of each fiscal quarter the amount
26 received during the previous quarter in the account
27 established under this section.

28 Sec. 9. Section 602.8108, subsection 3, paragraph c, Code
29 2003, is amended to read as follows:

30 c. Notwithstanding provisions of this subsection to the
31 contrary, all moneys collected from the drug abuse resistance
32 education surcharge provided in section ~~911.2~~ 911.3 shall be
33 remitted to the treasurer of state for deposit in the general
34 fund of the state and the amount deposited is appropriated to
35 the governor's office of drug control policy for use by the

1 drug abuse resistance education program and other programs
2 directed for a similar purpose.

3 Sec. 10. Section 805.8, subsection 1, Code 2003, is
4 amended to read as follows:

5 1. APPLICATION. Except as otherwise indicated, violations
6 of sections of the Code specified in sections 805.8A, 805.8B,
7 and 805.8C are scheduled violations, and the scheduled fine
8 for each of those violations is as provided in those sections,
9 whether the violation is of state law or of a county or city
10 ordinance. ~~The criminal penalty~~ A surcharge required by
11 section 911.2 or 911.3 shall be added to the scheduled fine.

12 Sec. 11. Section 805.8C, subsection 3, paragraph a, Code
13 2003, is amended to read as follows:

14 a. For violations of section 142B.6, the scheduled fine is
15 twenty-five dollars, and is a civil penalty, and ~~the criminal~~
16 ~~penalty~~ a surcharge under section 911.2 or 911.3 shall not be
17 added to the penalty, and the court costs pursuant to section
18 805.9, subsection 6, shall not be imposed. If the civil
19 penalty assessed for a violation of section 142B.6 is not paid
20 in a timely manner, a citation shall be issued for the
21 violation in the manner provided in section 804.1. However, a
22 person under age eighteen shall not be detained in a secure
23 facility for failure to pay the civil penalty. The
24 complainant shall not be charged a filing fee.

25 Sec. 12. Section 805.8C, subsection 3, paragraph c,
26 unnumbered paragraph 1, Code 2003, is amended to read as
27 follows:

28 For violations of section 453A.2, subsection 2, the
29 scheduled fine is as follows and is a civil penalty, and ~~the~~
30 ~~criminal penalty~~ a surcharge under section 911.2 or 911.3
31 shall not be added to the penalty, and the court costs
32 pursuant to section 805.9, subsection 6, shall not be imposed:

33 Sec. 13. Section 909.10, subsection 1, Code 2003, is
34 amended to read as follows:

35 1. As used in this section, unless the context otherwise

1 requires, "delinquent amounts" means a fine, court-imposed
2 court costs in a criminal proceeding, or ~~criminal~~ surcharge
3 imposed pursuant to section 911.2 or 911.3, which remains
4 unpaid after two years from the date that the fine, court
5 costs, or surcharge was imposed, and which is not collected by
6 the county attorney pursuant to section 602.8107. However, if
7 the fine may be paid in installments pursuant to section
8 909.3, the fine is not a delinquent amount unless the
9 installment remains unpaid after two years from the date the
10 installment was due.

11 Sec. 14. Section 911.2, unnumbered paragraph 1, Code 2003,
12 is amended to read as follows:

13 When a court imposes a fine or forfeiture for a violation
14 of a state law, or of a city or county ordinance except an
15 ordinance regulating the parking of motor vehicles, the court
16 shall assess an additional penalty in the form of a surcharge
17 equal to thirty percent of the fine or forfeiture imposed. An
18 ~~additional-drug-abuse-resistance-education-surcharge-of-ten~~
19 ~~dollars-shall-be-assessed-by-the-clerk-of-the-district-court~~
20 ~~if-the-violation-arose-out-of-a-violation-of-an-offense~~
21 ~~provided-for-in-chapter-321F-or-chapter-124, division-IV.~~ In
22 the event of multiple offenses, the surcharge shall be based
23 upon the total amount of fines or forfeitures imposed for all
24 offenses. When a fine or forfeiture is suspended in whole or
25 in part, the surcharge shall be reduced in proportion to the
26 amount suspended.

27

EXPLANATION

28 This bill establishes a criminalistics laboratory surcharge
29 and creates a criminalistics laboratory fund.

30 DIVISION I. The bill provides that a criminalistics
31 laboratory surcharge be assessed that is equal to 2 percent of
32 any fine or forfeiture imposed for a violation of any state
33 law or city or county ordinance, except a parking violation.
34 The bill provides that a criminalistics laboratory surcharge
35 be collected by the clerk of court and remitted to the

1 treasurer of state for deposit in the criminalistics
2 laboratory fund established in the state treasury.

3 The bill provides that the criminalistics laboratory fund
4 be under the control of the department of public safety and
5 that any moneys in the fund be appropriated to the department
6 for criminalistics laboratory equipment purchase, maintenance,
7 depreciation, and training.

8 DIVISION II. The bill combines the criminalistics
9 laboratory surcharge into one Code section with most of the
10 existing criminal surcharges in the Code, except the general
11 criminal penalty surcharge. This division of the bill amends
12 various Code sections to conform with combining the surcharges
13 into one Code section.

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Thomas J. Vilsack
Governor
Sally J. Pederson
Lt. Governor



Kevin W. Techau
Commissioner

TO: Members of the General Assembly
FROM: Betsy Dittmore, Legislative Liaison
DATE: January 13, 2003
RE: Proposed Criminal Surcharge

The DCI Crime Laboratory has relied on available federal funds to replace major technical and scientific equipment. This funding will expire in September 2003. It is critical that the laboratory replace scientific equipment on the recommended 5-year timetable and also remain technologically current. Additionally, it needs funds available for repair, maintenance and training to retain their accreditation status. The criminal surcharge is currently 30 percent of the amount of the fine, with 95 percent of the surcharge revenue going to the state. (The remaining five percent is sent to the county or city that was the plaintiff in the action.) This surcharge is currently distributed as follows (section 602.8108):

- Eighteen percent of this 95 percent is deposited in the victim compensation fund.
- Eighty-two percent to the state General Fund.
- All fines and fees attributable to commercial vehicle violation citations are deposited in the road use tax fund.

The Department proposes increasing the criminal surcharge by 2%, with the proceeds dedicated to a crime laboratory equipment maintenance, depreciation and training fund. In addition to equipment maintenance and replacement, the crime laboratory will require additional on-going expenditures for supplies, equipment and training associated with the continued growth of DNA analysis. Additionally, the crime laboratory is due to move into a new facility in December 2004 and is facing a shortage in its allotted equipment budget.