

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**April 6, 2009**

**TO:** Honorable Tommy Merritt, Chair, House Committee on Public Safety

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB3130** by Driver (Relating to the creation of DNA records for the DNA database system.),  
**As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3130, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

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:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

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

Fiscal Year	Probable Revenue Gain from <i>Criminal Justice Plan Ac 421</i>	Probable Revenue Gain from <i>State Highway Fund 6</i>	Probable Savings/ (Cost) from <i>State Highway Fund 6</i>	Change in Number of State Employees from FY 2009
2010	\$517,021	\$278,396	(\$7,693,226)	13.0
2011	\$930,644	\$501,116	(\$3,106,706)	10.0
2012	\$620,425	\$334,075	(\$1,816,146)	7.0
2013	\$310,219	\$167,041	(\$1,035,945)	3.0
2014	\$310,219	\$167,041	(\$966,577)	3.0

**Fiscal Analysis**

The bill would amend Code of Criminal Procedure, Article 102 to require all adults convicted of or placed on deferred adjudication for an offense punishable as a Class B misdemeanor or higher to provide a DNA sample for the Department of Public Safety (DPS) database. The bill also requires a \$50 court cost on conviction of an offense described by Government Code, Section 411.1471(a)(3). The bill would take effect on September 1, 2009.

**Methodology**

Current law requires only felony offenders to submit DNA samples to DPS. However, this bill would

require Class B misdemeanor or higher offenders to provide a DNA sample for the DPS database. The bill would require payment of the \$50 court cost by all persons convicted of or placed on deferred adjudication for an offense punishable as a Class B misdemeanor or higher.

Based on fiscal year 2008 data provided by the Department of Criminal Justice (TDCJ) for deferred adjudication placements for both felony and misdemeanor offenses, this analysis assumes 95,450 additional DNA samples would be collected by DPS for fiscal year 2010. For fiscal year 2011, this analysis assumes only 75 percent of DNA samples from fiscal year 2010 will be taken due to an assumed 25 percent of the adjudicated population having already submitted DNA samples which is 71,588 DNA samples ( $95,450 \times .75$ ). For fiscal year 2012, this analysis assumes only 50 percent of DNA samples from fiscal year 2010 will be taken due to 50 percent of the adjudicated population having already submitted DNA samples which is 47,725 DNA samples ( $95,450 \times .50$ ). For fiscal years 2013 and 2014, this analysis assumes only 25 percent of DNA samples from fiscal year 2010 will be taken due to 75 percent of the adjudicated population having already submitted DNA samples which is 23,863 DNA samples per year.

The revenue estimates listed above are based on the yearly population estimates and the Office of Court Administration (OCA) assumption of a 40 percent collection rate per year. Please note the collection for these additional court fees are allocated as follows: 65 percent to General Revenue-Dedicated Account 421, Criminal Justice Planning Account, and 35 percent to State Highway Fund 6. For fiscal year 2010, OCA also assumes only five months worth of new revenue would be collected. For fiscal year 2010, this analysis estimates the bill would generate \$795,417 ( $95,450 \times \$50 \times .40 \times 5/12$ ) in revenue (\$517,021 to General Revenue-Dedicated Account 421 and \$278,396 to State Highway Fund 6).

For fiscal years 2011 through 2014, the analysis assumes the state would collect 12 months of revenue each year. For fiscal year 2011, the bill would generate \$1,431,760 ( $71,588 \times \$50 \times .40$ ) in revenue (\$930,644 to General Revenue-Dedicated Account 421 and \$501,116 to State Highway Fund 6). For fiscal year 2012, the bill would generate \$654,500 ( $47,725 \times \$50 \times .40$ ) in revenue (\$620,425 to General Revenue-Dedicated Account 421 and \$334,075 to State Highway Fund 6). For fiscal years 2013 and 2014, the bill would generate \$477,260 ( $23,863 \times \$50 \times .40$ ) per year in revenue (\$310,219 to General Revenue-Dedicated Account 421 and \$167,041 to State Highway Fund 6).

DPS states each DNA analyst can process 7,300 samples per year. This analysis assumes the current sample process time per analyst for the additional population estimates (for example, for fiscal year 2010,  $95,450/7,300 = 13$  additional FTEs per year). This analysis assumes that an additional 13 FTEs in fiscal year 2010, 10 FTEs in fiscal year 2011, 7 FTEs in fiscal year 2012 and 3 FTEs in fiscal years 2013 and 2014 would be required to implement the provisions of the bill (all DNA analysts) to handle increase sample receiving, data entry, and to process and analyze the data to upload into the database, and to match verification reports. DPS states that additional office space will be required to accommodate the additional personnel and this analysis assumes an estimated lease cost of \$190,000 per year which is also included in the cost estimate. DPS also estimates an additional \$3,540,000 in fiscal year 2010 for additional DNA testing equipment. This estimate also includes DNA analysis reagents kits for each additional required sample. Other operating expenses such as maintenance and repair of office machines and computer equipment, computer supplies, non-capital computer equipment, and furniture and equipment, are also included in the cost estimate.

## **Technology**

DPS states the technology costs for fiscal year 2010 are \$373,936 for computer printers, enterprise agreements, data equipment, and a security system. DPS states the technology cost for fiscal year 2011 of \$281,556 which are the same as fiscal year 2010 except for computers and printers. DPS states the technology cost for fiscal years 2012 and 2014 are for enterprise agreements. DPS states the technology costs for fiscal year 2013 of \$76,073 which would include replacement of computers and printers and enterprise agreements.

## **Local Government Impact**

The bill would require local law enforcement to obtain specimens from certain defendants to create a DNA record. Several local law enforcement entities reported the provisions of the bill would not result in a significant fiscal impact. However, the Harris County Office of Budget and Management reported the costs would be an estimated \$1,469,600 for 19 additional staff, including salaries and benefits (\$1,229,600), and DNA collection kits (\$240,000) for fiscal year 2010.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JOB, ESi, GG, LG, TB, TP