

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION

May 6, 2013

TO: Honorable Joseph Pickett, Chair, House Committee on Homeland Security & Public Safety

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1038 by Eiland (Relating to the creation of DNA records for the DNA database system; authorizing the imposition of a fee.), **Committee Report 1st House, Substituted**

It is estimated that the Department of Public Safety would need \$22,721,519 in order to carry out the provisions of the legislation with fiscal implication. The bill will not take effect unless the Comptroller of Public Accounts certifies that the Department of Public Safety has received sufficient gifts, grants, or other non-appropriated funds to carry out the bill's provisions. Therefore, there is no significant fiscal implication to state funds.

The bill would amend the Government Code to expand the list of applicable defendants required to provide a DNA sample from the current requirement of certain felony offenses, to all individuals arrested for any offense punishable as a Class B misdemeanor or higher. The bill would also require the Department of Public Safety (DPS) to expunge an individual's DNA record from a DNA database, including the CODIS database, and destroy the associated DNA sample if the individual provides the agency with certified copies of any of the following: a judgment showing an acquittal; an entry of nolle prosequi; a discharge or dismissal after the individual has successfully completed a period of deferred adjudication community supervision; or a sworn affidavit to the agency that no charges arising from the arrest have been filed before the first anniversary of the individual's arrest. The bill's requirement that certain DNA data records be expunged would take effect regardless of whether the record was created before, on, or after the effective date of the bill.

The bill would require certain defendants to pay a fee of \$27 to the arresting law enforcement agency to reimburse the agency for the cost of the evidence collection kit used to collect a DNA sample from the defendant.

The bill would stipulate the bill's provisions involving fee authority and DNA sampling would take effect 30 days after the date on which the Comptroller certifies that DPS has received sufficient gifts, grants or other non-appropriated funds, to improve its crime laboratory equipment and services, to enable the analysis of DNA samples collected from arrested individuals as required by the bill. This requirement would take effect September 1, 2013.

The bill would also stipulate that if the Comptroller does not certify that such funds are available in sufficient amounts to enable the analysis of DNA samples as required by the bill, the bill's provisions involving fee authority and DNA sampling have no effect. The bill's requirement to expunge DNA records and DNA samples would take effect on September 1, 2013.

Methodology:

The Department of Public Safety assumes that the provisions of the bill would add 460,000 additional DNA

samples each year. In fiscal year 2011 DPS processed 68,528 DNA samples. The agency estimates the bill would increase the workload related to DNA sample processing by 670 percent. The agency states this increase would require additional FTEs, certain consumables related to DNA testing, and a one-time purchase of additional equipment necessary to process the additional DNA samples.

It is assumed DPS would by fiscal year 2016 require a total of 79.9 additional FTEs with associated costs, including 46 Combined DNA Index System (CODIS) analysts, 18 Crime Laboratory Specialists, 4 Program Specialists, 1 Administrative Assistant I, 2 Managers, and 8.9 support FTEs.

The bill would also require a one-time purchase of additional equipment used to process the DNA samples, estimated at \$7,276,820.

Additionally, the processing of DNA samples requires consumable supplies such as disposable items and chemicals. The agency estimates these supplies will cost \$8,502,315 in fiscal year 2015, \$11,764,995 in fiscal year 2016, \$15,004,995 in fiscal year 2017 and \$14,788,995 in fiscal year 2018.

The bill would also generate fee revenue to offset partially the above costs. The bill would require certain arrested individuals to pay a \$27 fee to reimburse the arresting agency for the cost of a DNA evidence collection kit. It is assumed this would result in revenues to DPS of \$121,095 in each fiscal year starting in fiscal year 2015. DPS estimates 6.5 percent of the 460,000 DNA samples will be for DPS arrestees (approximately 29,900 individuals per year). DPS expects 15 percent of these 29,900 arrestees to pay the \$27 for DNA sampling. DPS notes 15 percent is the historical collection rate experience of DPS. Thus: $((460,000 * .065) * .15) * \$27 = \$121,095$.

Local Government Impact

The Texas Association of Counties surveyed Dallas, Harris, Lubbock, and Midland Counties.

Dallas County reported that new fees would cover the cost of implementing the provisions of the bill, but noted that fees can be difficult to collect and the bill may lead to small fiscal loss. Harris County, Lubbock County, and Midland County also reported that no significant fiscal impact is anticipated.

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 696 Department of Criminal Justice

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