

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

**FISCAL NOTE, 83RD LEGISLATIVE REGULAR SESSION**

**April 3, 2013**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE:** SB767 by Patrick (relating to the creation of DNA records for the DNA database system. ),  
**Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB767, Committee Report 1st House, Substituted: a negative impact of (\$4,461,741) through the biennium ending August 31, 2015.

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:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2014	(\$2,277,377)
2015	(\$2,184,364)
2016	(\$2,184,364)
2017	(\$2,184,364)
2018	(\$2,195,595)

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

<b>Fiscal Year</b>	<b>Probable Savings/(Cost) from General Revenue Fund</b>	<b>Change in Number of State Employees from FY 2013</b>
	<b>1</b>	
2014	(\$2,277,377)	9.0
2015	(\$2,184,364)	9.0
2016	(\$2,184,364)	9.0
2017	(\$2,184,364)	9.0
2018	(\$2,195,595)	9.0

**Fiscal Analysis**

This bill would amend the Government Code to apply the DNA sample and record requirement to a person convicted of a Class B misdemeanor or higher and to a person placed on deferred

adjudication for public lewdness or indecent exposure. The bill would require that DNA samples collected by the Department of Public Safety (DPS) for the purpose of creating a new DNA record be destroyed immediately after being entered into the DNA database.

The bill would amend the Code of Criminal Procedure to impose a court cost for DNA testing for persons convicted of certain crimes. Under current law, a \$50 court cost is assessed on a person convicted of public lewdness or indecent exposure. The bill would amend that provision to require a person convicted of a Class B misdemeanor or higher to pay the \$50 court cost, unless they were convicted of an offense that would mandate the payment of an existing \$250 court cost. The bill would require a person placed on deferred adjudication for public lewdness or indecent exposure to pay a \$34 court cost. The \$34 and \$50 court costs would be remitted to the Comptroller and credited to DPS to help defray the cost of collecting and testing DNA.

This bill would take effect September 1, 2013.

### **Methodology**

Historical records indicate approximately 55,000 convicted offenders per year would be required to provide a DNA sample for testing. The Department of Public Safety (DPS) estimates nine new FTEs are required to meet the provisions of the bill. These nine FTEs would include five Forensic Scientists I to complete approximately 10,000 samples per year; one Program Specialist liaison with the agencies that would be submitting DNA samples from convicted misdemeanor defendants; one Crime Laboratory Specialist to receive and store the new DNA samples; and one Forensic Scientist VI to supervise the new staff. The agency estimates a total cost of \$631,035 in General Revenue per fiscal year for salary and benefits. The agency estimates a cost of \$1.5 million to \$1.6 million per fiscal year for other costs such as consumable supplies, equipment, travel, utilities and rent. The majority of these other costs are due to consumable supplies needed for processing DNA samples. The agency indicates these costs are \$27 per sample for a total cost of approximately \$1.5 million per fiscal year to process 55,000 DNA samples.

The Office of Court Administration (OCA) and the Comptroller of Public Accounts (CPA) indicate that expanding the application of the DNA testing court cost would increase state revenues. Due to the way convictions statistics from the local courts for misdemeanors are received by OCA, the CPA was unable to estimate the impact on state revenue. The CPA indicates that there would be a revenue gain to the state as a result of changes made by the bill. The extent to which revenues would offset the costs of DNA testing would depend upon the number of convictions and the collection rate of court costs and fees. The OCA currently estimates a 40 percent collection rate for assessments related to misdemeanor and felony convictions at the county and district court levels.

### **Local Government Impact**

Under the provisions of the bill, an offender convicted of a Class B misdemeanor or higher or placed on deferred adjudication for certain offenses would be required to submit a DNA specimen, which would place increased demands on local law enforcement to collect DNA samples. Because the bill would authorize an indeterminate increase in local revenues resulting from additional fees assessed, the net fiscal impact of the bill's provisions on local law enforcement entities is indeterminate. Further, the bill would require clerks of the courts to forward court costs collected under this bill to the Comptroller to defray the cost of DNA testing. The Office of Court

Administration anticipates no significant local cost as a result of this provision.

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

**LBB Staff:** UP, JAW, ESi, AI, JJO