

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

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

**April 11, 2013**

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

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

**IN RE:** SB1292 by Ellis (Relating to DNA testing of biological evidence in certain capital cases.),  
**Committee Report 1st House, Substituted**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
--

The bill would amend the Code of Criminal Procedure to require that the Department of Public Safety (DPS) perform DNA testing, or manage the outsourcing of the DNA testing, on all biological evidence collected as part of the investigation of a capital offense prior to the trial of a defendant in which the state is seeking the death penalty. The testing of biological evidence would be in accordance with DPS' capabilities at the time the testing is performed. The bill requires DPS to pay for the DNA tests required by the bill. If biological evidence is destroyed during the testing required by the bill, DPS or the laboratory that conducted the testing must give the defendant any documentation related to the testing of the evidence and the results of that testing.

The bill directs the affected court to order the state and the defendant to meet to confer about which biological materials qualify as biological evidence. If the state and the defendant disagree, the state or the defendant may request a hearing to determine the issue.

The bill would take effect September 1, 2013. It is assumed that the costs associated with the bill could be absorbed within existing resources.

**Local Government Impact**

There could be an indeterminate increase in costs to local governments as the result of additional court proceedings related to the identification of biological materials that would be tested as evidence.

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

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