

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 13, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB941 by Hernandez (Relating to the creation of DNA records for the DNA database system.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB941, As Passed 2nd House: a positive impact of \$1,650,240 through the biennium ending August 31, 2017.

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
2016	\$825,120
2017	\$825,120
2018	\$825,120
2019	\$825,120
2020	\$825,120

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue (Loss) from <i>State Highway Fund</i> 6	Probable Revenue (Loss) from <i>Criminal Justice Plan Ac</i> 421	Probable Revenue Gain from <i>General Revenue Fund</i> 1
2016	(\$49,789)	(\$92,465)	\$825,120
2017	(\$49,789)	(\$92,465)	\$825,120
2018	(\$49,789)	(\$92,465)	\$825,120
2019	(\$49,789)	(\$92,465)	\$825,120
2020	(\$49,789)	(\$92,465)	\$825,120

Fiscal Analysis

The bill would amend the Code of Criminal Procedure to expand the category of cases to which a \$50 court cost for DNA Testing would apply upon conviction.

The bill would also provide that all of the 90 percent (10 percent is retained by the county) of the \$50 fees currently collected for convictions of the crimes of public lewdness and indecent exposure, and the additional fees that will be collected for convictions in an expanded category of cases (all new fees under this bill) that are remitted to the State would be credited to the Department of Public Safety (DPS) to help defray the cost of collecting and analyzing DNA samples. Under current law, 35 percent of the fees that go to the state are directed to the state highway fund and 65 percent are directed to the criminal justice planning account.

Under current law, when a person is convicted or placed on deferred adjudication for public lewdness and indecent exposure the court must require the defendant to provide samples for the creation of a DNA record. The bill would only require this upon conviction, not placement on deferred adjudication, and expands the provision to include convictions in an expanded category of cases. The bill also clarifies when a defendant is not required to provide a DNA sample if the defendant has already provided one under other law.

The Office of Court Administration (OCA) indicates that revenue losses for cases under current law to the state highway fund (\$49,789) and the criminal justice planning account (\$92,465) that are to be offset by General Revenue credits (\$142,254) to DPS to defray the costs of collecting and analyzing DNA samples from the class of offenses, as described, are anticipated to be relatively minimal.

Together, OCA estimates fees from convictions for current cases redirected to General Revenue (\$142,254) and expanded category of cases subject to the \$50 fee (\$682,866) would generate \$825,120 in General Revenue each fiscal year.

DPS anticipates that any costs associated with the provisions of the bill can be absorbed within current agency resources.

The bill would take effect September 1, 2015.

Methodology

Based upon historical records, OCA estimates bill provisions would apply to 7,903 convictions each fiscal year under current law. The fee collected for the convictions under current law would be approximately \$395,150 (7,903 x \$50). The collection rate on these assessed costs is projected to be 40 percent, so, of the amount assessed, the amount collected would be \$158,060 (\$395,150 x 0.40).

Counties retain 10 percent of the revenue. That amount would be \$15,806, which is not included in the local impact because it is considered ongoing. The balance of \$142,254 would be directed to the state. As described above, this amount would be redirected to General Revenue for use by DPS, with a corresponding decrease in the state highway fund and the criminal justice planning fund.

OCA also estimates bill provisions would apply to 37,937 additional convictions each fiscal year would be subject to the fee. The fee collected for the expanded categories of convictions would be approximately \$1,896,850 (37,937 x \$50). The collection rate on these assessed costs is projected to be 40 percent, so, of the amount assessed, the amount collected would be \$758,740 (\$1,896,850 x 0.40).

Counties retain 10 percent of the revenue. That amount would be \$75,874. The balance of \$682,866 would be directed to the state.

Local Government Impact

There would be a positive fiscal implication to counties due to the expanded class of cases subject to the \$50 fee, estimated to be \$75,874 each fiscal year.

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

LBB Staff: UP, TB, KVe, KJo, MW, KKR, ESi, AI