

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 15, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3740 by Faircloth (Relating to the creation of DNA records for a person arrested for a Class A misdemeanor or felony offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3740, As Introduced: a negative impact of (\$38,127,288) 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	(\$22,460,821)
2017	(\$15,666,467)
2018	(\$15,666,467)
2019	(\$15,666,467)
2020	(\$15,666,467)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain from State Highway Fund 6	Probable Revenue Gain from Criminal Justice Plan Ac 421	Probable Savings/(Cost) from General Revenue Fund 1	Change in Number of State Employees from FY 2015
2016	\$6,060,046	\$11,254,371	(\$22,460,821)	67.5
2017	\$6,060,046	\$11,254,371	(\$15,666,467)	67.5
2018	\$6,060,046	\$11,254,371	(\$15,666,467)	67.5
2019	\$6,060,046	\$11,254,371	(\$15,666,467)	67.5
2020	\$6,060,046	\$11,254,371	(\$15,666,467)	67.5

Fiscal Analysis

The bill would require persons arrested on charges of Class A misdemeanors and felonies to submit DNA samples for testing. The bill would also require that the \$250 DNA Testing Court

Cost apply upon conviction of all felonies and Class A misdemeanors. Currently, this fee only applies to certain felonies.

The bill also would limit the \$50 fee to conviction of the offense of indecent exposure (Sec. 21.08, Penal Code). Currently, this fee applies to convictions for the offenses of public lewdness (Sec. 21.07, Penal Code) and indecent exposure. The offense of public lewdness is a Class A misdemeanor that would be assessed a \$250 fee under this bill.

Under current law, the \$34 fee is assessed against persons who are granted community supervision for the conviction of certain felonies and provide a DNA sample. They are not required to provide a sample if the person has already submitted the required sample under other law. The bill would clarify that a person would not have to submit a sample if one has already been submitted under Sec. 411.1471, Government Code, the section that provides who must submit a sample. This would be the case unless the prosecutor establishes that the interest of justice or public safety require additional samples. Because the bill would require all persons arrested for felonies to submit a DNA sample at the time of arrest, very few individuals would not have already submitted a sample by the time they are convicted and granted community supervision. Therefore, we assume that very few individuals would pay the \$34 fee under this bill.

DPS indicates there would be an incremental increase of 337,453 alleged offenders arrested each year required to provide a DNA sample for testing or fingerprints for records. Of this amount, the OCA estimates 195,073 alleged offenders would eventually be convicted or give deferred adjudication and be required to pay the \$250 court cost for DNA testing. These 195,073 persons are not required to do so under current law. Testing samples or taking fingerprints of convicted persons or persons given deferred adjudication would result in a smaller cost.

Methodology

In its analysis, DPS indicates sampling or fingerprinting all 337,453 alleged offenders would require 67.5 FTEs to implement the provisions of the bill. These 67.5 FTEs would include 27.0 Combined DNA Index System Analyst (CODIS) positions; 10.0 Evidence Technicians, 2.0 Program Specialists, 15.0 Fingerprint Technician, and 13.5 FTEs for indirect administration duties, including secretarial assistance related to the new staff.

This analysis includes a total cost of approximately \$4.7 million in General Revenue each fiscal year for salary and benefits. Other costs each fiscal year would include consumable supplies, equipment, travel, utilities and rent which would total approximately \$2.4 million in fiscal year 2016 and \$1.7 million in each subsequent fiscal year. The majority of these other costs are due to consumable supplies needed for processing DNA samples. This analysis includes \$27 per sample for a total cost of approximately \$9.1 million each fiscal year to process the anticipated 337,453 samples from new alleged offenders. There would be one-time capital expenses of approximately \$6.1 million in fiscal year 2016 to equip the new staff.

Based upon historical records of the Office of Court Administration, the bill would make the \$250 DNA court cost assessment apply to an additional 195,073 cases (139,718 felonies and 55,355 Class A misdemeanors). At an incremental increase of \$216 per case for some cases (a new \$250 cost where before a person would have been charged \$34 in an estimated 13,972 cases); an incremental increase of \$200 per case for some cases (a new \$250 cost where before a person would have been charged \$50 in an estimated 3,952 cases; and, an increase \$250 per each new test required for offenses formerly not under testing provisions (in an estimated 177,149 cases), an estimated \$48,095,602 each fiscal year would be assessed in cost-generated revenue. Assuming a

40 percent collection rate, \$19,238,241 each fiscal year might be collected. Of this amount, the state would receive 90 percent (\$17,314,417): 65 percent to the Criminal Justice Planning Fund No. 421 (\$11,254,371) and 35 percent to the State Highway Fund No. 6 (\$6,060,046).

Local Government Impact

Under the provisions of the bill, an offender convicted of certain offenses would be required to submit a DNA specimen, which would place increased demands on local law enforcement to collect DNA samples.

According to the Office of Court Administration, counties would receive of to 10 percent of revenue generated under the bill, estimated to be \$1,923,824 each fiscal year.

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

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