

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

**FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION**

**April 7, 2015**

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

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

**IN RE:** SB725 by Perry (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 SB725, Committee Report 1st House, Substituted: a negative impact of (\$6,998,210) 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	(\$4,313,689)
2017	(\$2,684,521)
2018	(\$2,684,521)
2019	(\$2,684,521)
2020	(\$2,684,521)

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

Fiscal Year	Probable Revenue Gain from <i>Criminal Justice Plan Ac 421</i>	Probable Revenue Gain from <i>State Highway Fund 6</i>	Probable Savings/(Cost) from <i>General Revenue Fund 1</i>	Change in Number of State Employees from FY 2015
2016	\$2,078,727	\$1,119,315	(\$4,313,689)	7.9
2017	\$2,078,727	\$1,119,315	(\$2,684,521)	7.9
2018	\$2,078,727	\$1,119,315	(\$2,684,521)	7.9
2019	\$2,078,727	\$1,119,315	(\$2,684,521)	7.9
2020	\$2,078,727	\$1,119,315	(\$2,684,521)	7.9

**Fiscal Analysis**

The bill would amend the Government Code regarding the Department of Public Safety (DPS) and

DNA records of certain persons charged with or convicted of certain felonies, Class A and B misdemeanors, or subject to deferred adjudication for certain offenses.

The bill would amend the Code of Criminal Procedure to require persons to pay a \$50 court cost for DNA Testing if the person was: 1) convicted of a felony under certain additional portions of the Penal Code; 2) convicted of a Class A misdemeanor under certain portions of the Penal Code; 3) convicted of a Class B misdemeanor or higher under Title 5 of the Penal Code, or 4) placed on deferred adjudication for offenses of public lewdness or indecent exposure.

The bill would amend the categories of cases to which a \$34 or \$50 court cost for DNA Testing would apply. The bill would expand the cases to which the \$50 fee applies, unless a person was 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 bill would require that DNA samples collected by DPS for the purpose of creating a new DNA record be destroyed immediately after being entered into the DNA database.

The bill would take effect September 1, 2015.

## **Methodology**

Historical records indicate approximately 187,170 convicted offenders per year would be required to provide a DNA sample for testing. Of this amount, 173,198 offenders would be required to provide samples that are not required to do so under current law.

Based on information provided by DPS, it is assumed that approximately 21 percent of the 173,198 would be reoffenders who already have a DNA-tested sample on file in the DNA database (36,383). Accordingly, it is assumed DPS would receive and store the new sample for the reoffender, but the department would not necessarily need to retest the new sample. This would leave a balance of 136,815 in samples from new offenders each fiscal year subject to DNA testing.

DPS indicates it would need 7.9 FTEs to implement the provisions of the bill. These 7.9 FTEs would include 2.0 Combined DNA Index System Analyst (CODIS) positions; 1.0 Evidence Technician, 1.0 Program Specialist, 1.0 Fingerprint Technician, and 0.9 FTEs for indirect administration duties related to the new staff.

This analysis includes a total cost of \$518,456 in General Revenue each fiscal year for salary and benefits. Other costs each fiscal year would include consumable supplies, equipment, travel, utilities and rent. 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 \$2.1 million each fiscal year to process the anticipated 136,815 DNA samples from new offenders. There would be one-time capital expenses of \$1.5 million in fiscal year 2016 to equip the new staff.

Based upon historical records of the Office of Court Administration, an approximate 187,170 cases statewide in district courts and statutory county court are estimated to be felonies, Class A misdemeanors, or Class B Misdemeanors subject to the DNA court cost assessment. At an incremental increase of \$16 per case for some cases (a new \$50 cost when before a person would have been charged \$34 in an estimated 13,972 cases), plus an increase \$50 per each new test required for offenses formerly not under testing provisions (in an estimated 173,198 cases), an estimated \$8,883,452 each fiscal year would be assessed in cost-generated revenue. For the

purposes of this analysis, the table above reflects amounts assuming a 40 percent collection rate, \$3,553,381 each fiscal year would be collected. Of this amount, the state would receive 90 percent (\$3,198,042) with 65 percent being allocated to the Criminal Justice Planning Fund No. 421 (\$2,078,727) and 35 percent to the State Highway Fund No. 6 (\$1,119,315).

### **Local Government Impact**

Based on a 40 percent collection rate, this analysis assumes counties would receive 10 percent of revenue generated under the bill, estimated to be \$355,338 each fiscal year.

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

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