

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 24, 2017

TO: Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3513 by Faircloth (Relating to the creation and storage of DNA records for a person arrested for a felony offense.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3513, As Introduced: a negative impact of (\$5,934,798) through the biennium ending August 31, 2019. Additionally, there would be a positive impact to the General Revenue-Dedicated Criminal Justice Planning Fund No. 421 of \$17,802,466 through the biennium ending August 31, 2019.

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
2018	(\$3,219,809)
2019	(\$2,714,989)
2020	(\$2,714,989)
2021	(\$2,714,989)
2022	(\$2,714,989)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from General Revenue Fund 1	Probable Revenue Gain/(Loss) from State Highway Fund 6	Probable Revenue Gain/(Loss) from Criminal Justice Plan Ac 421	Probable Revenue Gain/(Loss) from Counties
2018	(\$3,219,809)	\$4,792,971	\$8,901,233	\$1,521,578
2019	(\$2,714,989)	\$4,792,971	\$8,901,233	\$1,521,578
2020	(\$2,714,989)	\$4,792,971	\$8,901,233	\$1,521,578
2021	(\$2,714,989)	\$4,792,971	\$8,901,233	\$1,521,578
2022	(\$2,714,989)	\$4,792,971	\$8,901,233	\$1,521,578

Fiscal Year	Change in Number of State Employees from FY 2017
2018	9.0
2019	9.0
2020	9.0
2021	9.0
2022	9.0

Fiscal Analysis

The bill would amend the Government Code and Code of Criminal Procedure to require law enforcement to collect a specimen for DNA testing from any person arrested for any felony and would require a court to order a collection of specimens for DNA testing from defendants convicted of certain misdemeanors. The bill would clarify that a person would not have to submit a sample for DNA testing if one has already been submitted previously.

The bill would also make changes to the collection of court costs for DNA testing. Under current law, a court cost of \$250 is currently collected upon conviction of certain felonies and a \$50 court cost is collected upon conviction of certain Class A misdemeanors and certain felonies not subject to the \$250 cost. The bill would make all felony convictions subject to a \$250 court cost.

The bill would require the director of the Department of Public Safety (DPS) to apply for any available federal grant funds applicable to support the creation and storage of DNA records of persons arrested for certain offenses.

The bill would take effect September 1, 2017.

Methodology

This analysis is created using fiscal year 2016 provided by the DPS and the Office of Court Administration (OCA). For the purposes of this analysis, it is assumed that the number of arrests without DNA data on file and felony convictions would continue at 2016 levels each fiscal year.

This estimate assumes that sampling of an estimated 112,117 additional adults and juveniles would require 9.0 FTEs for DPS to implement the provisions of the bill. These 9.0 FTEs would include 7.0 Combined DNA Index System Analysts, 1.0 Crime Laboratory Specialist, and 1.0 Program Specialist. This analysis includes a total cost of \$672,848 in General Revenue each fiscal year for salary and benefits. Other costs each fiscal year would include consumable supplies, professional services, and other operating expenses that would total \$2,727,313 in fiscal year 2018 that includes \$503,825 in one-time expenditures for two data analyzers and indirect software support and \$995 for DPS to contract with a desktop engineer to modify CODIS software at the state and local level to meet the bill's provisions. Other costs for each subsequent fiscal year are estimated to be \$2,180,011. A majority of these other costs are for the purchase of kits used for the collection and storage of DNA samples.

Based upon historical records of the OCA, the bill would make the \$250 DNA court cost assessment apply to an additional 155,222 felony convictions. 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 8,544 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 9,511 cases); and, an increase of \$250 per each new test required for offenses formerly not under testing provisions (in

an estimated 137,167 cases), an estimated \$38,039,454 each fiscal year would be assessed in cost-generated revenue. Assuming a 40 percent collection rate, \$15,215,782 each fiscal year might be collected. Of this amount, the state would receive 90 percent (\$13,694,204): 65 percent to the Criminal Justice Planning Fund No. 421 (\$8,901,233) and 35 percent to the State Highway Fund No. 6 (\$4,792,971).

Technology

This analysis assumes that CODIS software will need to be modified at the state and local level at a cost of \$995 for DPS to contract with a desktop engineer in fiscal year 2018. CODIS consists of three levels of information; Local DNA Index Systems (LDIS) where DNA profiles originate, State DNA Index Systems (SDIS) which allows for laboratories within states to share information, and the National DNA Index System (NDIS) which allows states to compare DNA information with one another.

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 up to 10 percent of revenue generated under the bill, estimated to be \$1,521,578 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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