

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 8, 2017

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

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3872** by Lucio III (Relating to a motion for forensic DNA testing of certain evidence previously subjected to faulty testing.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Code of Criminal Procedure to allow a convicted person to request court-ordered DNA re-testing if the original DNA testing that resulted in the conviction was performed by a laboratory during the period in which they were using "faulty" DNA testing practices, as determined by an audit performed by the Texas Forensic Science Commission. The bill would require the defendant to show with a preponderance of the evidence that if the DNA evidence had not been presented at trial, the remaining evidence would not have resulted in a conviction. It is assumed any costs associated with implementing the provisions of the bill could be absorbed within current resources.

The bill would take effect immediately upon a two-thirds vote of all the members in each chamber; otherwise, the bill take effect September 1, 2017.

Local Government Impact

According to the Texas Association of Counties, El Paso County reported varying costs depending upon level of DNA testing (e.g., \$20,000 for a DNA test in a capital murder case versus \$500 for DNA paternity). Over the past five fiscal years, El Paso County has expended an estimated \$1.5 million on capital murder cases; therefore, additional required testing would increase DNA testing costs and associated legal fees. The bill would have a significant fiscal impact on the County.

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

LBB Staff: UP, KJo, ZB, AI, JAW, JGA