

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Poncho Nevárez, Chair, House Committee on Homeland Security & Public Safety

FROM: John McGeady, Assistant Director Sarah Keyton, Assistant Director
Legislative Budget Board

IN RE: HB1399 by Smith (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 HB1399, As Introduced: a negative impact of (\$3,348,538) through the biennium ending August 31, 2021.

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
2020	(\$2,098,698)
2021	(\$1,249,840)
2022	(\$1,249,840)
2023	(\$1,249,840)
2024	(\$1,249,840)

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
2020	(\$2,098,698)	\$4,684,527	\$8,699,836	\$1,487,151
2021	(\$1,249,840)	\$4,684,527	\$8,699,836	\$1,487,151
2022	(\$1,249,840)	\$4,684,527	\$8,699,836	\$1,487,151
2023	(\$1,249,840)	\$4,684,527	\$8,699,836	\$1,487,151
2024	(\$1,249,840)	\$4,684,527	\$8,699,836	\$1,487,141

Fiscal Year	Change in Number of State Employees from FY 2019
2020	15.0
2021	15.0
2022	15.0
2023	15.0
2024	15.0

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 a 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 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, 2019.

Methodology

This analysis is created using fiscal year 2018 statistics provided by 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 2018 levels each fiscal year.

Under the provision of the bill, DPS estimates it would sample an additional 120,509 adults and juveniles each year. It is assumed the provisions of the bill would require 10.0 Combined DNA Index System (CODIS) Analysts, 1.0 Lead Evidence Technician, 3.0 Crime Lab Specialists I, and 1.0 CODIS Section Supervisor, for a total of 15.0 FTEs each year. This analysis includes a total cost of \$1,088,084 in General Revenue each fiscal year for salary and benefits.

Other costs in fiscal year 2020 include consumable supplies, professional services, other operating expenses, and capital expenditures that would total \$1,010,614. That includes \$848,857 in one-time expenditures for lab equipment to process the additional samples. Other costs for each subsequent fiscal year are estimated to be \$161,757.

According to the OCA, the bill would make the \$250 DNA court cost assessment apply to an additional 151,635 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 8,124 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 9,075 cases); and, an increase of \$250 for each new test required for offenses formerly not under testing provisions (in an estimated 134,436 cases), an estimated \$37,178,784 each fiscal year would be assessed in cost-generated revenue.

Assuming a 40 percent collection rate, \$14,871,514 each fiscal year might be collected. Of this amount, the state would receive 90 percent (\$13,384,363): 65 percent to the Criminal Justice Planning Fund No. 421 (\$8,699,836) and 35 percent to the State Highway Fund No. 6 (\$4,684,527).

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 OCA, counties would receive 10 percent of revenue generated under the bill, estimated to be \$1,487,151 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: WP, LBO, MW, DA, AI, RC, SMi