

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 18, 2019

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

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 certain felony offenses.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1399, Committee Report 2nd House, Substituted: a negative impact of (\$2,834,358) 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.

The Department of Public Safety is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Department of Public Safety may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

General Revenue-Related Funds, Five-Year Impact:

| Fiscal Year | Probable Net Positive/(Negative) Impact to General Revenue Related Funds |
|--------------------|---|
| 2020 | (\$1,456,092) |
| 2021 | (\$1,378,266) |
| 2022 | (\$1,378,266) |
| 2023 | (\$1,378,266) |
| 2024 | (\$1,378,266) |

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 | (\$1,456,092) | \$2,866,538 | \$5,323,570 | \$910,012 |
| 2021 | (\$1,378,266) | \$2,866,538 | \$5,323,570 | \$910,012 |
| 2022 | (\$1,378,266) | \$2,866,538 | \$5,323,570 | \$910,012 |
| 2023 | (\$1,378,266) | \$2,866,538 | \$5,323,570 | \$910,012 |
| 2024 | (\$1,378,266) | \$2,866,538 | \$5,323,570 | \$910,012 |

| Fiscal Year | Change in Number of State Employees from FY 2019 |
|--------------------|---|
| 2020 | 6.0 |
| 2021 | 6.0 |
| 2022 | 6.0 |
| 2023 | 6.0 |
| 2024 | 6.0 |

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 certain arrested persons and to 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 provisions of the bill, DPS estimates it would sample an additional 40,035 adults and juveniles each year. It is assumed the provisions of the bill would require 4.5 Combined DNA Index System (CODIS) Analysts and 1.5 Crime Lab Specialists I for a total of 6.0 FTEs each year. Analysis includes a total cost of \$423,648 in General Revenue each fiscal year for salary and benefits.

Other costs in fiscal year 2020, which include consumable supplies, professional services, other operating expenses, and capital expenditures, would total \$1,032,444. This includes \$166,489 in one-time expenditures for lab equipment to process the additional samples. Other costs for each subsequent fiscal year are estimated to be \$954,618.

Based on information provided by the Comptroller of Public Accounts, the bill would make the \$250 DNA court cost assessment apply to an additional 91,013 felony convictions each year (\$22,753,250) and the \$50 DNA court cost assessment apply to 59 fewer misdemeanor convictions each year (-\$2,950). It is estimated that \$22,750,300 each fiscal year would be assessed in cost-generated revenue. Assuming a 40 percent collection rate, \$9,100,120 each fiscal year might be collected. Of this amount, the state would receive 90 percent (\$8,190,108): 65 percent to the Criminal Justice Planning Fund No. 421 (\$5,323,570) and 35 percent to the State Highway Fund No. 6 (\$2,866,538).

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 \$910,012 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, CMa, SMi, SPa, LBO, MW, DA, AI, RC