

SENATE AMENDMENTS

2nd Printing

By: Smith, Phelan, Moody, Button

H.B. No. 1399

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation and storage of DNA records for a person
3 arrested for certain felony offenses.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. This Act may be cited as the Krystal Jean Baker
6 Act.

7 SECTION 2. Article 42A.352, Code of Criminal Procedure, is
8 amended to read as follows:

9 Art. 42A.352. DNA SAMPLE. A judge granting community
10 supervision to a defendant convicted of a felony shall require as a
11 condition of community supervision that the defendant provide a DNA
12 sample under Subchapter G, Chapter 411, Government Code, for the
13 purpose of creating a DNA record of the defendant, unless the
14 defendant has already submitted the required sample under Section
15 411.1471, Government Code, or other [state] law.

16 SECTION 3. Article 102.020(a), Code of Criminal Procedure,
17 is amended to read as follows:

18 (a) A person shall pay as a cost of court:

19 (1) \$250 on conviction of an offense listed in Section
20 411.1471(a)(1), Government Code;

21 (2) \$50 on conviction of an offense described by
22 Section 411.1471(a)(2) [~~411.1471(a)(3)~~], Government Code; or

23 (3) \$34 on placement of the person on community
24 supervision, including deferred adjudication community

1 supervision, if the person is required to submit a DNA sample under
2 Article 42A.352.

3 SECTION 4. Subchapter G, Chapter 411, Government Code, is
4 amended by adding Section 411.1425 to read as follows:

5 Sec. 411.1425. GRANT FUNDS. The director shall apply for
6 any available federal grant funds applicable to the creation and
7 storage of DNA records of persons arrested for certain offenses.

8 SECTION 5. The heading to Section 411.1471, Government
9 Code, is amended to read as follows:

10 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR [~~7~~
11 ~~CHARGED WITH,~~] OR CONVICTED OF CERTAIN OFFENSES.

12 SECTION 6. Section 411.1471, Government Code, is amended by
13 amending Subsections (a), (b), and (e) and adding Subsection (b-1)
14 to read as follows:

15 (a) This section applies to a defendant who is:

16 (1) arrested [~~indicted or waives indictment~~] for a
17 felony prohibited [~~or punishable~~] under any of the following Penal
18 Code sections:

19 (A) Section 19.02;

20 (B) Section 19.03;

21 (C) Section 20.03;

22 (D) Section 20.04 [~~20.04(a)(4)~~];

23 (E) Section 20.05;

24 (F) Section 20.06;

25 (G) Section 20A.02;

26 (H) Section 20A.03;

27 (I) Section 21.02;

- 1 (J) [~~(B)~~] Section 21.11;
- 2 (K) Section 22.01;
- 3 (L) [~~(C)~~] Section 22.011;
- 4 (M) Section 22.02;
- 5 (N) [~~(D)~~] Section 22.021;
- 6 (O) [~~(E)~~] Section 25.02;
- 7 (P) Section 29.02;
- 8 (Q) Section 29.03;
- 9 (R) [~~(F)~~] Section 30.02 [~~30.02(d)~~];
- 10 (S) Section 31.03;
- 11 (T) Section 43.03;
- 12 (U) Section 43.04;
- 13 (V) [~~(G)~~] Section 43.05;
- 14 (W) [~~(H)~~] Section 43.25; or
- 15 (X) [~~(I)~~] Section 43.26; or
- 16 [~~(J)~~ Section 21.02; or
- 17 [~~(K)~~ Section 20A.03;]

18 (2) [~~arrested for a felony described by Subdivision~~
19 ~~(1) after having been previously convicted of or placed on deferred~~
20 ~~adjudication for an offense described by Subdivision (1) or an~~
21 ~~offense punishable under Section 30.02(c)(2), Penal Code; or~~

22 [~~(3)~~] convicted of an offense:

23 (A) under Title 5, Penal Code, other than an
24 offense described by Subdivision (1), that is punishable as a Class
25 A misdemeanor or any higher category of offense, except for an
26 offense punishable as a Class A misdemeanor under Section 20.02,
27 22.01, or 22.05, Penal Code; or

1 (B) under Section 21.08, 25.04, 43.02(b),
2 [~~43.03,~~] or 43.24, Penal Code.

3 (b) [~~After a defendant described by Subsection (a)(1) is~~
4 ~~indicted or waives indictment, the court in which the case is~~
5 ~~pending shall require the defendant to provide to a law enforcement~~
6 ~~agency one or more specimens for the purpose of creating a DNA~~
7 ~~record.~~] A law enforcement agency arresting a defendant described
8 by Subsection (a)(1) [~~(a)(2)~~], immediately after fingerprinting
9 the defendant and at the same location as the fingerprinting
10 occurs, shall require the defendant to provide one or more
11 specimens for the purpose of creating a DNA record.

12 (b-1) After a defendant described by Subsection (a)(2)
13 [~~(a)(3)~~] is convicted, the court shall require the defendant to
14 provide to a law enforcement agency one or more specimens for the
15 purpose of creating a DNA record.

16 (e) Notwithstanding Subsection (d), on acquittal of a
17 defendant described by Subsection (a)(1) [~~or (2)~~] or dismissal of
18 the case against the defendant, the court shall order the law
19 enforcement agency taking the specimen to immediately destroy the
20 record of the collection of the specimen and require the department
21 to destroy the specimen and the record of its receipt.

22 SECTION 7. Section 411.1471(c), Government Code, is
23 repealed.

24 SECTION 8. Section 411.1471, Government Code, as amended by
25 this Act, applies only to an offense committed on or after the
26 effective date of this Act. An offense committed before the
27 effective date of this Act is governed by the law in effect on the

1 date the offense was committed, and the former law is continued in
2 effect for that purpose. For purposes of this section, an offense
3 was committed before the effective date of this Act if any element
4 of the offense occurred before that date.

5 SECTION 9. This Act takes effect September 1, 2019.

ADOPTED

MAY 22 2019

Letay Spaul
Secretary of the Senate

By: Creighton

H.B. No. 1399

Substitute the following for ___B. No. _____:

By: Brandon Creighton

C.S. H.B. No. 1399

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10 supervision to a defendant convicted of a felony shall require as a
11 condition of community supervision that the defendant provide a DNA
12 sample under Subchapter G, Chapter 411, Government Code, for the
13 purpose of creating a DNA record of the defendant, unless the
14 defendant has already submitted the required sample under Section
15 411.1471, Government Code, or other ~~[state]~~ law.

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17 is amended to read as follows:

18 (a) A person shall pay as a cost of court:

19 (1) \$250 on conviction of an offense listed in Section
20 411.1471(a)(1), Government Code;

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22 Section 411.1471(a)(2) [~~411.1471(a)(3)~~], Government Code; or

23 (3) \$34 on placement of the person on community
24 supervision, including deferred adjudication community

1 supervision, if the person is required to submit a DNA sample under
2 Article 42A.352.

3 SECTION 4. Subchapter G, Chapter 411, Government Code, is
4 amended by adding Section 411.1425 to read as follows:

5 Sec. 411.1425. GRANT FUNDS. The director shall apply for
6 any available federal grant funds applicable to the creation and
7 storage of DNA records of persons arrested for certain offenses.

8 SECTION 5. The heading to Section 411.1471, Government
9 Code, is amended to read as follows:

10 Sec. 411.1471. DNA RECORDS OF PERSONS ARRESTED FOR [~~7~~
11 ~~CHARGED WITH,~~] OR CONVICTED OF CERTAIN OFFENSES.

12 SECTION 6. Section 411.1471, Government Code, is amended by
13 amending Subsections (a), (b), and (e) and adding Subsection (b-1)
14 to read as follows:

15 (a) This section applies to a defendant who is:

16 (1) arrested [~~indicted or waives indictment~~] for a
17 felony prohibited [~~or punishable~~] under any of the following Penal
18 Code sections:

19 (A) Section 19.02;

20 (B) Section 19.03;

21 (C) Section 20.03;

22 (D) Section 20.04 [~~20.04(a)(4)~~];

23 (E) Section 20.05;

24 (F) Section 20.06;

25 (G) Section 20A.02;

26 (H) Section 20A.03;

27 (I) Section 21.02;

1 (J) [~~(B)~~] Section 21.11;
2 (K) Section 22.01;
3 (L) [~~(C)~~] Section 22.011;
4 (M) Section 22.02;
5 (N) [~~(D)~~] Section 22.021;
6 (O) [~~(E)~~] Section 25.02;
7 (P) Section 29.02;
8 (Q) Section 29.03;
9 (R) [~~(F)~~] Section 30.02 [~~30.02(d)~~];
10 (S) Section 31.03;
11 (T) Section 43.03;
12 (U) Section 43.04;
13 (V) [~~(G)~~] Section 43.05;
14 (W) [~~(H)~~] Section 43.25; or
15 (X) [~~(I)~~] Section 43.26; or
16 ~~[(J) Section 21.02; or~~
17 ~~[(K) Section 20A.03;]~~

18 (2) ~~[arrested for a felony described by Subdivision~~
19 ~~(1) after having been previously convicted of or placed on deferred~~
20 ~~adjudication for an offense described by Subdivision (1) or an~~
21 ~~offense punishable under Section 30.02(c)(2), Penal Code; or~~

22 ~~[(3)]~~ convicted of an offense:

23 (A) under Title 5, Penal Code, other than an
24 offense described by Subdivision (1), that is punishable as a Class
25 A misdemeanor or any higher category of offense, except for an
26 offense punishable as a Class A misdemeanor under Section 20.02,
27 22.01, or 22.05, Penal Code; or

1 (B) under Section 21.08, 25.04, 43.02(b),
2 ~~[43.03,~~] or 43.24, Penal Code.

3 (b) ~~[After a defendant described by Subsection (a)(1) is~~
4 ~~indicted or waives indictment, the court in which the case is~~
5 ~~pending shall require the defendant to provide to a law enforcement~~
6 ~~agency one or more specimens for the purpose of creating a DNA~~
7 ~~record.]~~ A law enforcement agency arresting a defendant described
8 by Subsection (a)(1) ~~[(a)(2)]~~, immediately after fingerprinting
9 the defendant and at the same location as the fingerprinting
10 occurs, shall require the defendant to provide one or more
11 specimens for the purpose of creating a DNA record.

12 (b-1) After a defendant described by Subsection (a)(2)
13 ~~[(a)(3)]~~ is convicted, the court shall require the defendant to
14 provide to a law enforcement agency one or more specimens for the
15 purpose of creating a DNA record.

16 (e) Notwithstanding Subsection (d), on acquittal of a
17 defendant described by Subsection (a)(1) ~~[or (2)]~~ or dismissal of
18 the case against the defendant, the court shall order the law
19 enforcement agency taking the specimen to immediately destroy the
20 record of the collection of the specimen and require the department
21 to destroy the specimen and the record of its receipt.

22 SECTION 7. Section 411.1471(c), Government Code, is
23 repealed.

24 SECTION 8. Section 411.1471, Government Code, as amended by
25 this Act, applies only to an offense committed on or after the
26 effective date of this Act. An offense committed before the
27 effective date of this Act is governed by the law in effect on the

1 date the offense was committed, and the former law is continued in
2 effect for that purpose. For purposes of this section, an offense
3 was committed before the effective date of this Act if any element
4 of the offense occurred before that date.

5 SECTION 9. The Department of Public Safety of the State of
6 Texas is required to implement a provision of this Act only if the
7 legislature appropriates money specifically for that purpose. If
8 the legislature does not appropriate money specifically for that
9 purpose, the Department of Public Safety of the State of Texas may,
10 but is not required to, implement a provision of this Act using
11 other appropriations available for that purpose.

12 SECTION 10. This Act takes effect September 1, 2019.

ADOPTED

VV
MAY 22 2019

BY:

Royce West

FLOOR AMENDMENT NO. 1

Leta Spaw
Secretary of the Senate

- 1 Amend H.B. 1399 (senate committee printing) as follows:
- 2 On page 2, line 55, between "," and "the", insert "or after
- 3 an individual has been granted relief in accordance with a writ of
- 4 habeas corpus that is based on a court finding or determination
- 5 that the person is actually innocent of a crime for which the
- 6 person was sentenced,".

ADOPTED

✓✓
MAY 22 2019

FLOOR AMENDMENT NO. 2

BY: Roger Hayden

Debra Spaul
Secretary of the Senate

1 Amend C.S.H.B. No. 1399 (senate committee report) in SECTION
2 6 of the bill, by striking amended Section 411.1471(e), Government
3 Code (page 2, lines 53-58), and substituting the following:
4 (e) Notwithstanding Subsection (d), on acquittal of a
5 defendant described by Subsection (a)(1) [~~or (2)~~] or dismissal of
6 the case against the defendant, [~~the court shall order~~] the law
7 enforcement agency taking the specimen shall [~~to~~] immediately
8 destroy the record of the collection of the specimen, and [~~require~~]
9 the department shall [~~to~~] destroy the specimen and the record of
10 its receipt. As soon as practicable after the acquittal of the
11 defendant or the dismissal of the case, the court shall provide
12 notice of the acquittal or dismissal to the applicable law
13 enforcement agency and the department.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 23, 2019

TO: Honorable Dennis Bonnen, Speaker of the House, House of Representatives

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.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1399, As Passed 2nd House: 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 <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6	Probable Revenue Gain/(Loss) from <i>Criminal Justice Plan</i> <i>Ac</i> 421	Probable Revenue Gain/(Loss) from <i>Counties</i>
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

**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 <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6	Probable Revenue Gain/(Loss) from <i>Criminal Justice Plan</i> Ac 421	Probable Revenue Gain/(Loss) from <i>Counties</i>
2020	(\$1,456,092)	\$2,866,538	\$5,323,570	\$910,012
2021	(\$1,378,266)	\$2,866,538	\$5,323,570	\$910,012
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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
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LBB Staff: WP, CMA, SMi, SPa, LBO, MW, DA, AI, RC

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

May 16, 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.), **As Engrossed**

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2023	6.0
2024	6.0

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The bill would take effect September 1, 2019.

Methodology

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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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 9, 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 certain felony offenses.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1399, Committee Report 1st 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.

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 <i>General Revenue Fund</i> 1	Probable Revenue Gain/(Loss) from <i>State Highway Fund</i> 6	Probable Revenue Gain/(Loss) from <i>Criminal Justice Plan</i> <i>Ac</i> 421	Probable Revenue Gain/(Loss) from <i>Counties</i>
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 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 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, SMi, SPa, LBO, MW, DA, AI, RC

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