

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 136 (Delegate Kelly, *et al.*)
 Judiciary

Public Safety - DNA Testing - Felony Convictions

This bill expands the list of persons required to submit a DNA sample to the State’s DNA repository from persons convicted of specified “qualifying crimes of violence” to persons convicted of a felony.

The bill applies to any person convicted of a felony before, on, or after the bill’s October 1, 2002 effective date.

Fiscal Summary

State Effect: General fund expenditures for the State Police could increase by approximately \$1.6 million in FY 2003 for additional DNA testing, staff to process the samples, and storage. Future years reflect annualization and inflation.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	1,580,300	1,176,600	1,205,000	1,234,900	1,266,400
Net Effect	(\$1,580,300)	(\$1,176,600)	(\$1,205,000)	(\$1,234,900)	(\$1,266,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: This bill is not expected to have a direct impact on local finances.

Small Business Effect: Potential minimal.

Analysis

Current Law: Persons who have been convicted of a “qualifying crime of violence” are required to submit a DNA sample, which is stored with other samples and maintained by

the crime laboratory in the statewide DNA repository for analysis. The following are qualifying crimes of violence:

- rape in any degree;
- a sexual offense in the first, second, or third degree;
- murder;
- robbery and robbery with a dangerous or deadly weapon;
- first degree assault; and
- attempts to commit these offenses.

Chapter 490 of 1999 added the non-sexual offenses on this list.

Background: DNA (deoxyribonucleic acid) is genetic material that is present in every cell of the human body, and may often be detectable in common criminal evidence such as hair and body fluids. It is unique and specific to an individual (except for identical twins who share identical genetic material). As technology in genetic and evidentiary testing has evolved, more attention has been given to DNA identification testing as a law enforcement tool, used to establish either the guilt or innocence of suspected or convicted offenders.

According to the National Conference of State Legislatures (NCSL), all states have passed laws requiring DNA collection from certain sexual offenders, and most states also require other serious offenders to provide samples. In the year 2000 alone, at least nine states added crimes for which offenders are required to submit DNA samples. Constitutional challenges to these laws under the Fourth Amendment (prohibiting unreasonable searches and seizures), Eighth Amendment (prohibiting cruel and unusual punishment), and the Ex Post Facto Clause (prohibiting criminalization or punishment of behavior that was not criminal or punishable at the time of its commission) have largely failed.

NCSL notes that state crime laboratories have had difficulty keeping up with the increasing numbers of offender samples, resulting in a nationwide backlog of approximately half a million unanalyzed samples collected from convicted offenders and an additional one million samples not yet even collected. The federal government has made attempts to address these issues by authorizing \$170 million in federal funding under the DNA Analysis Backlog Elimination Act of 2000 (HR 4640) and awarding over \$7 million in Justice Department grants to help states enter and analyze DNA samples.

The Department of State Police (DSP) advises that it has approximately 5,000 cases outstanding for DNA processing (enactment of Chapter 418 in 2001, which authorized petitions for post conviction DNA testing for defendants convicted of certain violent

crimes, added about 9,000 cases to the workload). According to a January 25, 2002 article published in the *Baltimore Sun*, Baltimore City police have begun operating their own DNA laboratory and have requested a federal grant to finance about 1,000 DNA tests per year.

State Expenditures: According to DSP, it currently costs \$54 per sample for DNA analysis. Based upon data from the Department of Public Safety and Correctional Services and Uniform Crime Reporting, DSP estimates that the current total inmate felony population is 19,881. Of those, 11,651 already have DNA collection in process under current law, leaving 8,230 currently incarcerated felons who would need to have samples collected as a result of this bill. Further, on average, approximately 5,859 individuals convicted of felonies enter the Division of Correction (DOC) annually, 2,500 of whom are required to submit samples under current law. Therefore, approximately 3,359 additional individuals entering DOC annually will need to have samples collected as a result of this bill. Lastly, there are approximately 9,222 convicted felons annually who receive probation rather than incarceration. Of those, about 500 currently must submit samples; thus, an additional 8,722 convicted felons receiving probation annually would need to submit samples as a result of this bill. This means that approximately 20,311 individuals would need to submit DNA samples in fiscal 2003 at a cost of \$1,096,794. DNA kits at \$3.50 per individual would add \$71,089 to the fiscal 2003 expenditures. Approximately 12,081 individuals would need to submit samples annually thereafter. These estimates do not include the number of felons who may be housed in local jails and may add marginally to the total costs. The number of felons in local jails is not readily available at this time.

General fund expenditures could increase by an additional estimated \$334,770 in fiscal 2003, which accounts for the bill's October 1, 2002 effective date. This estimate reflects the cost of hiring three lab technicians to collect, process, and transport the DNA samples and six forensic chemists to review and log the samples. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Start-up costs in fiscal 2003 include the cost of three vehicles for the lab technicians at \$11,384 each, one new computer system at \$5,000, and an additional storage system at \$5,000.

Collection of 20,311 DNA Samples	\$1,096,794
20,311 DNA Kits	71,089
Salaries and Fringe Benefits	334,770
Three Automobiles	34,152
Computer and Storage System	10,000
Other Operating Expenses	<u>33,489</u>
Total FY 2003 State Expenditures	\$1,580,294

Future year expenditures reflect: (1) full salaries with 3.5% annual increases and 3% employee turnover; (2) 1% annual increases in ongoing operating expenses; and (3) DNA sample collection and kits for 12,081 individuals with 1% annual increases.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): State's Attorneys' Association, Public Defender's Office, Department of State Police, Department of Legislative Services

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