

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 213

(The President, *et al.*) (By Request - Administration)

Judicial Proceedings

Judiciary

Department of State Police - Collection of DNA Samples

This Administration bill authorizes the collection of a DNA sample from a person convicted of a felony, fourth degree burglary, or breaking and entering into a vehicle at a suitable location in a circuit court at the time of sentencing. DNA samples are to be collected by an individual designated, as opposed to appointed, by the Director of the State Police Crime Laboratory.

Fiscal Summary

State Effect: The requirement that samples be taken at a circuit court could be handled with existing resources.

Local Effect: Potential expenditure increase to provide locations for the collection of DNA samples at the circuit court level.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment. The attached assessment does not reflect amendments to the bill.

Analysis

Current Law: A person convicted of a felony, fourth degree burglary, or breaking and entering a motor vehicle is required to have a DNA sample collected on intake at a correctional facility. A person not sentenced to a term of imprisonment is required to provide a DNA sample as a condition of probation or sentence.

DNA samples are to be collected at the correctional facility where the person is confined or at a facility designated by the Director of the Crime Laboratory for individuals on probation or not sentenced to imprisonment.

Samples are to be collected by an individual who is appointed by the director and trained in Crime Laboratory DNA collection procedures.

When an individual is transferred to the correctional facility, the Division of Correction (DOC) notifies the State Police, and an officer is sent the facility to collect the DNA sample.

Background: 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 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.

State Expenditures: The State Police Crime Laboratory currently budgets for the collection of DNA samples. This includes the sampling kits (80,000 in the proposed fiscal 2006 budget.) The Crime Laboratories has negotiated Memoranda of Understanding (MOU) with several agencies statewide to provide DNA collection services and is negotiating an MOU with DOC to allow DOC to collect the samples without notifying the State Police. The State Police could collect DNA samples at a courthouse with existing resources.

Local Expenditures: Circuit courts are maintained and operated by the counties in which they sit. The actual impact on local expenditures depends on the number of courts that opt to conduct the DNA collections at the courthouse and the costs, if any, of providing a suitable location. There are 24 circuit court facilities that would be affected.

Additional Comments: It is unclear from the bill who would determine where the sample would have to be taken, or the extent of the involvement of the courts in collection of the DNA.

Additional Information

Prior Introductions: None.

Cross File: HB 240 (The Speaker, *et al.*) (By Request – Administration) – Judiciary.

Information Source(s): State's Attorneys' Association, Judiciary (Administrative Office of the Courts,) Office of the Public Defender, Department of State Police, Department of Public Safety and Correctional Services, Department of Legislative Services

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Analysis by: Kineta A. Rotan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510