

Department of Legislative Services  
 Maryland General Assembly  
 2007 Session

**FISCAL AND POLICY NOTE**

House Bill 996 (Delegate Jameson)  
 Judiciary

**Public Safety - Statewide DNA Data Base System - Sexual Offenses and Kidnapping - Sample Collection on Arrest**

This bill requires that an individual arrested for a rape, attempted rape, sexual offense, kidnapping, or child sexual abuse have a DNA sample collected on arrest. The sample has to be taken at the facility where the arrest is processed.

**Fiscal Summary**

**State Effect:** Significant expenditures would be incurred for new staff, additional storage and analysis facilities, and software development and maintenance (not shown below). In addition, general fund expenditures would increase by an estimated \$57,800 in FY 2008 to pay for additional DNA sampling and collection kits. Future year estimates reflect annualization and inflation. No effect on revenues.

(in dollars)	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	57,800	78,500	80,100	81,700	83,300
Net Effect	(\$57,800)	(\$78,500)	(\$80,100)	(\$81,700)	(\$83,300)

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

**Local Effect:** While DNA collections would be conducted by the State Crime Laboratory Division, not local police agencies, some local police departments could experience operational difficulties.

**Small Business Effect:** None.

## Analysis

**Current Law:** DNA samples are collected from individuals convicted of a felony, fourth degree burglary, or breaking and entering into a vehicle. DNA samples are collected at the correctional facility where the person is confined, at a facility designated by the Director of the Crime Laboratory for individuals on probation or not sentenced to imprisonment, or at a suitable location in a circuit court at the time of sentencing.

Each DNA identification record must be stored and maintained by the State Police Crime Laboratory in the statewide DNA database. Matches between evidence samples and database entries may only be used as probable cause. Matches are not admissible at trial unless confirmed by additional testing.

An individual may request to have a DNA record or profile expunged from the statewide database if the conviction that resulted in the record or profile's inclusion in the database meets specified expungement criteria. On receipt of a court order of expungement, the Director of the Crime Laboratory shall purge any DNA record, DNA sample, or other identifiable information covered by the order from the statewide DNA database and the statewide DNA repository.

Disclosure of DNA information to unauthorized persons or obtaining DNA information without authorization are misdemeanor offenses, punishable by maximum penalties of three years incarceration and/or a \$1,000 fine.

**Background:** According to the National Conference of State Legislatures, all states have passed laws requiring DNA collection from certain sexual offenders, and most states also require other serious offenders to provide samples. California, Louisiana, Minnesota, Texas, and Virginia have laws authorizing arrestee sampling. 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 Fiscal Effect:** General fund expenditures would increase by an estimated \$57,750 in fiscal 2008, which accounts for the bill's October 1, 2007 effective date, to pay for additional DNA sampling.

This estimate is based on the following assumptions:

- 2,000 annual qualifying arrests (based on Uniform Crime Reporting statistics);
- cost of \$36.00 for analysis of each sample; and
- cost of \$2.50 for each sample collection kit.

Future year expenditures reflect annualization and inflation, and range from \$78,540 in fiscal 2009 to \$83,347 in fiscal 2012.

This figure does not reflect additional costs which the State police expect to incur. The State police are solely responsible for the collection and maintenance of the DNA database. It reports that there are 117 local- and State-level police departments that operate within the State, and an additional 23 State police barracks, all of which would require a certified individual (on a 24-hour basis) to collect the DNA sample. These additional costs include:

- hiring additional personnel at each police department and State police barrack in the State or outsourcing work to a contractor, to make and transport DNA collections;
- additional DNA sample and analysis facilities; and
- development and maintenance of a database capable of tracking arrestee samples.

These additional costs cannot be reliably determined at this time, but they are expected to be significant.

**Additional Comments:** It is not clear whether the bill also removes provisions for collecting DNA samples from individuals convicted of felonies and certain other crimes. This fiscal note is based on the assumption that DNA sampling requirements for other felonies upon conviction remain in place, as per the intent of the sponsor.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Public Safety and Correctional Services, State's Attorneys' Association; Judiciary (Administrative Office of the Courts); Office of the Public Defender; Department of State Police; Montgomery County; Allegany County; City of Laurel; National Conference of State Legislatures; Department of Legislative Services

**Fiscal Note History:** First Reader - March 6, 2007  
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