



**Colorado
Legislative
Council
Staff**

SB16-075

**FINAL
FISCAL NOTE**

(replaces fiscal note dated March 1, 2016)

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0743 **Date:** May 18, 2016
Prime Sponsor(s): Sen. Johnston; Cooke **Bill Status:** Postponed Indefinitely
 Rep. Lawrence; Pabon **Fiscal Analyst:** Kerry White (303-866-3469)

BILL TOPIC: DNA COLLECTION MISDEMEANOR VULNERABLE PERSONS

| Fiscal Impact Summary | FY 2016-2017 | FY 2017-2018 |
|--|-----------------|------------------|
| State Revenue | \$56,218 | \$105,646 |
| Cash Funds | 56,218 | 105,646 |
| State Expenditures | \$75,339 | \$87,573 |
| General Fund | 15,484 | 0 |
| Cash Funds | 56,218 | 83,878 |
| Centrally Appropriated Costs | 3,637 | 3,695 |
| TABOR Impact | \$56,218 | \$105,646 |
| FTE Position Change | 0.3 FTE | 0.3 FTE |
| Appropriation Required: \$71,702 - Multiple agencies (FY 2016-17). | | |
| Future Year Impacts: Ongoing increases in state revenue and expenditures. | | |

Summary of Legislation

This bill, *as amended by the Senate Judiciary Committee*, expands the type of misdemeanor convictions, sentenced after July 1, 2016, that require the defendant to provide a sample of his or her DNA, to include:

- third degree assault;
- menacing, when the underlying factual basis involves domestic violence;
- reckless endangerment, when the underlying factual basis involves domestic violence;
- misdemeanor criminal mischief, when the underlying factual basis involves domestic violence;
- misdemeanor child abuse;
- violation of a protection order; and
- harassment.

Background and Assumptions

DNA samples. Under current law, persons convicted of a felony offense or a misdemeanor sex offense are required to provide a DNA sample. A person who is granted a deferred judgment and sentence is not required to submit a sample unless it is revoked and a sentence is imposed. DNA samples are processed by the Colorado Bureau of Investigation (CBI) in the Department of Public Safety. Samples are collected by:

- the Department of Corrections during intake or within 35 days if the offender is sentenced to the department or the youth offender system;
- the sheriff or community corrections program within 35 days of an offender being received into the custody of a county jail or community corrections facility; or
- the Judicial Department within 35 days of an offender being placed on probation or receiving any other type of sentence, including a suspended sentence.

Misdemeanor offenses that will require testing under Senate Bill 16-075. In the past year, there were about 2,200 misdemeanor convictions that met the criteria of the bill. This number includes deferred judgment sentences that were revoked. Excluding misdemeanor convictions that accompanied a felony or deferred judgment sentences that did not result in a revocation, caseload is assumed to be 2,197 in FY 2016-17 and 2,219 in FY 2017-18. First year caseload is prorated to 1,830 cases in order to account for the bill's new effective date of September 1, 2016. The fiscal note assumes all testing will be done by Probation staff in the Judicial Department.

State Revenue

This bill will increase state cash fund revenue by \$56,218 in FY 2016-17 and \$105,646 in FY 2017-18. This revenue will be credited to the Offender Identification Fund in the Judicial Department.

Assumptions. The fiscal note assumes that 20 percent of misdemeanor convictions under the bill already have a DNA sample on file and will not be subject to further testing. Caseload is, therefore, assumed to be 2,197 new offenders tested in FY 2016-17, prorated to 1,830 due to the effective date of September 1, 2016, and will increase by 1 percent per year. The following assumptions apply to the revenue collection:

- Each conviction will result in an assessment of the current fee of \$128 for DNA extraction;
- 20 percent of offenders will be deemed indigent and unable to pay the fee; and
- consistent with current payment rates, 30 percent of each year's revenue will be collected in the first year and the remainder will be paid in 20 percent increments over future years until paid in full.

Table 1 shows the anticipated change in revenue.

| Table 1. Fee Impact Under SB16-075 | | | | | |
|---|--------------------|------------------------|---------------------------|-----------------------|---------------------------|
| Type of Fee | Current Fee | Number Affected | Number Paying Fee* | Base Revenue** | Total Collected*** |
| Offender Identification Fee FY 2016-17 | \$128 | 1,830 | 1,464 | \$187,392 | \$56,218 |
| FY 2016-17 TOTAL | | | | | |
| Offender Identification Fee FY 2017-18 | \$128 | 2,219 | 1,775 | \$227,226 | \$68,168 |
| Year 1 revenue received | | | | | 37,478 |
| FY 2017-18 TOTAL | | | | | \$105,646 |

* This is the number affected less 20 percent.

** This is the number of persons paying the fee multiplied by the current fee.

*** In the first year, this is 30 percent of the base revenue. In the second year, this is 20 percent of the first year's revenue.

TABOR Impact

This bill increases state cash fund revenue collected from fees, which will increase the amount of revenue required to be refunded under TABOR. TABOR refunds are paid from the General Fund.

State Expenditures

This bill increases state expenditures by \$75,339 and 0.3 FTE in FY 2016-17 and by \$87,573 and 0.3 FTE in FY 2017-18. Table 2 and the discussion that follows describe the costs of the bill.

| Table 2. Expenditures Under SB16-075 | | |
|---|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Judicial Department | \$11,474 | \$13,913 |
| DNA Swab Testing Kits | 11,474 | 13,913 |
| CBI | \$63,865 | \$73,660 |
| Personal Services | 14,423 | 14,423 |
| FTE | 0.3 FTE | 0.3 FTE |
| DNA Sample Processing | 45,805 | 55,542 |
| Centrally Appropriated Costs* | 3,637 | 3,695 |
| TOTAL | \$75,339 | \$87,573 |

* Centrally appropriated costs are not included in the bill's appropriation.

Judicial Department. Staff in the Probation Division are required to conduct DNA sampling for certain misdemeanor offenders sentenced to probation. Based on actual sentences in the last year, it is assumed that the majority of samples will be collected by Probation staff. Probation staff will collect 1,830 samples in FY 2016-17 and 2,219 samples in FY 2017-18. Caseload will increase by 1 percent per year thereafter. DNA swab testing kits will be used by staff to extract DNA samples from offenders at a cost of \$6.27 per kit. As of this writing, the increased workload for Probation staff can be accomplished within existing appropriations and no additional FTE are required.

CBI in the Department of Public Safety. The CBI will be required to process samples collected by the Judicial Department, as well as those collected by local law enforcement (see Local Government Impact section below). Costs are based on an assumption that 1,830 samples will be processed in FY 2016-17 and 2,219 will be processed in FY 2017-18. Total caseload will increase by 1 percent per year thereafter. DNA processing costs \$25.03 per sample. Each technician can process about 6,500 samples per year, resulting in an increase of 0.3 FTE each year.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and summarized in Table 3.

| Table 3. Centrally Appropriated Costs Under SB16-075* | | |
|--|-------------------|-------------------|
| Cost Components | FY 2016-17 | FY 2017-18 |
| Employee Insurance (Health, Life, Dental, and Short-term Disability) | \$2,403 | \$2,403 |
| Supplemental Employee Retirement Payments | 1,234 | 1,292 |
| TOTAL | \$3,637 | \$3,695 |

*More information is available at: <http://colorado.gov/fiscalnotes>

Effective Date

The bill was postponed indefinitely by the Senate Finance Committee on March 29, 2016.

State Appropriations

For FY 2016-17, the bill requires the following appropriations:

- \$11,474 from the Offender Identification Fund to the Probation Division in the Judicial Department; and
- \$60,228, including \$15,484 General Fund and \$44,744 from the Offender Identification Fund, and an allocation of 0.3 FTE to the Colorado Bureau of Investigation in the Department of Public Safety.

Departmental Differences

The Colorado Bureau of Investigation within the Department of Public Safety agreed with the cost for processing DNA samples, but has indicated it has sufficient spending authority to implement the bill's requirements without an additional appropriation. The fiscal note includes these costs because it assumes, in accordance with fiscal note common policies, that any adjustments required for the department will occur through the budget process and will not take into account the passage of SB16-075.

State and Local Government Contacts

Counties
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