



Colorado
Legislative
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MEMORANDUM

April 28, 2009

TO: Representative Scott Tipton
Members of the House Judiciary Committee

FROM: Sara McPhee, Research Associate (303-866-4782)

SUBJECT: Fiscal Assessment of Proposed Amendment **SB241_L.026**.

This memorandum is an assessment of the fiscal impact of the attached proposed amendment to **SB09-241**. This fiscal assessment is for the impact of the bill with inclusion of this amendment only. Any other added amendment could influence the fiscal impact.

Summary of Proposed Amendment

Amendment L.026 changes the population who must have their DNA taken from all individuals **arrested** for a felony to all individuals **charged** with a felony. With the amendment, individuals charged with a felony would have their DNA taken, by the investigating agency, after their first court appearance.

Fiscal Impact of Amendment

The amendment changes the fiscal impact shown in the fiscal note dated April 27, 2009. With the amendment, the expenditure impact to the Department of Public Safety is \$1,139,540 and 2.5 FTE in FY 2010-11 and \$564,833 and 2.1 FTE from the Offender Identification Cash Fund.

62,640 people are arrested for a felony each year; however, 40,490 people are charged with a felony each year. The decrease in the number of people who would be required to submit to DNA testing accounts for the difference in the costs with Amendment L.026. With the amendment, the CBI will require fewer DNA kits to send to local law enforcement agencies and fewer DNA samples will require analysis.

The amendment also changes the timing for the submission of the DNA sample. In the reengrossed version of the bill, DNA samples are taken upon arrest when the individual is processed at the police station and also submits to fingerprints, photographs, and providing other information as a part of the booking process. With the amendment, the

DNA sample is not obtained until after the defendant appears in court and is then ordered to allow the investigating agency to obtain a sample. This process may take additional time for the defendant to provide the DNA sample, however, a similar process exists for individuals who have not been fingerprinted prior to their first court appearance. The court orders the person to provide his or her fingerprints to the investigating agency and the court maintains a record to ensure that the defendant complies with the order. If adopted, this process can be used as a model for ensuring that DNA samples are obtained from people who have been charged with a felony.

Because of the lower costs to implement the bill with Amendment L.026, the fee that is assessed on all felony, misdemeanor, and traffic convictions will collect more money than is necessary to fund the bill. If Amendment L.026 is adopted, the fee could be reduced to \$1.50.

Bill's Revised Fiscal Impact with Amendment

With Amendment L.026, the cash funds expenditure impact to the Department of Public Safety is reduced to \$1,139,540 and 2.5 FTE in FY 2010-11 and \$564,833 and 2.1 FTE from the Offender Identification Cash Fund. The impact to the Judicial Branch, Department of Revenue, and Department of Corrections shown in the fiscal note of April 27, 2009 remains the same:

- In FY 2010-11, the Department of Revenue will incur computer programming costs of \$19,315; however, these costs are covered with funding provided in the Long Bill and no additional appropriations are necessary.
- In FY 2011-12, the Judicial Branch will have a reduction in General Fund costs of \$91,004 and 1.5 FTE and a reduction in costs from the Offender Identification Cash Fund by \$61,275.
- In FY 2011-12, the Department of Corrections will have a reduction in General Fund costs of \$24,385.

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

Date

Committee on .

After consideration on the merits, the Committee recommends the following:

SB09-241 be amended as follows:

- 1 Amend reengrossed bill, page 2, line 19, strike "**arrested for or**";
- 2 line 25, strike "ARRESTED" and substitute "CHARGED".
- 3 Page 3, line 1, strike "FOR" and substitute "WITH";
- 4 strikes lines 2 through 15;
- 5 line 16, strike "(III) IN ALL OTHER CASES, UPON" and substitute "AT".
- 6 Page 5, line 13, strike "IF:" and substitute "IF EACH FELONY";
- 7 strike lines 14 and 15;
- 8 line 18, change the semi-colon to a period;
- 9 strike lines 19 through 25.
- 10 Page 6, line 26, strike "ARRESTED OR".

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