

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 13-0289

**Date:** January 31, 2013

**Prime Sponsor(s):** Rep. McNulty  
Sen. Roberts

**Bill Status:** House Judiciary

**Fiscal Analyst:** Kerry White (303-866-3469)

**TITLE:** CONCERNING EVIDENCE COLLECTED IN CONNECTION WITH A SEXUAL ASSAULT.

<b>Fiscal Impact Summary</b>	<b>FY 2013-2014</b>	<b>FY 2014-2015</b>
<b>State Revenue</b>		
<b>State Expenditures</b>	Increase - see State Expenditures section.	
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2013-2014:</b> None required.		
<b>Local Government Impact:</b> See Local Government Impact section.		

**Summary of Legislation**

This bill sets forth new requirements concerning the collection and treatment of forensic medical evidence of alleged sexual assault. First, the bill requires the Department of Public Safety (DPS) to issue rules on the standards and timing for submitting, analyzing, and comparing such evidence. Second, the bill directs medical personnel not to release evidence in connection with a sexual assault unless written consent is provided by the victim or other authorized person. Finally, it lays out a plan for eliminating a backlog for testing evidence of alleged sexual assault. Specifically, it requires law enforcement agencies to submit required existing evidence to the Colorado Bureau of Investigation (CBI) within the DPS or other accredited crime lab within 60 days of the bill's effective date. Other existing evidence, subject to available space, is to be submitted within 90 days.

The CBI is also required to provide a report to the Governor and legislative committees, within 90 days of the bill's effective date, that proposes a plan to test backlogged evidence before June 30, 2014.

**State Expenditures**

Overall and as described below, this bill will increase expenditures for DPS by an indeterminate amount as a result of rule making, testing of mandatory evidence, and preparing a plan to eliminate a backlog of testing evidence of alleged sexual assault. The bill will also increase workload for state courts by a minimal amount and may impact the Department of Corrections.

**Rule making.** DPS will be required to promulgate rules about the treatment of evidence of alleged sexual assault. Rule making is estimated to cost \$3,090, for which DPS can accommodate within existing appropriations.

**Testing of mandatory evidence.** DPS is required, by rule, to determine which evidence is mandatory and must be submitted by local law enforcement agencies to the CBI within 60 days versus which evidence may be submitted as space is available within 90 days. As the rule-making will need to be performed in conjunction with local law enforcement agencies and no data are currently available to indicate how much evidence (that will be classified as either mandatory or subject to available space) is to be tested, it is not possible to determine the fiscal impact of this provision. This analysis assumes the CBI will either promulgate rules so that it can address the increase in workload within existing appropriations, or it will request additional resources through the annual budget process.

**Backlog evidence.** DPS will also be required to collect inventories of existing evidence and prepare a report for the Governor and legislative committees proposing a plan for addressing the backlog of evidence. This analysis assumes that the report will include a request for funding based on the amount of evidence requiring testing that is received from local law enforcement agencies. For illustrative purposes only, Table 1 shows DPS costs to process 800 kits of DNA samples. These costs will be paid with General Fund moneys. Depending on how many additional DNA sample kits will require testing, additional laboratory space may also be required. It should be noted that currently, about 8,600 DNA sample kits are processed per year for sexual assault cases.

<b>Cost Components</b>	<b>First Full Year</b>
Personal Services	\$348,230
FTE	4.9
Operating Expenses and Capital Outlay	27,700
DNA Equipment	611,765
DNA Software	50,000
Laboratory Supplies	402,973
DNA Sample Kit Processing	420,000
<b>TOTAL</b>	<b>\$1,860,668</b>

**Judicial Department.** To the extent that increasing the amount of evidence tested results in an increase in DNA matches, the bill could increase the number of cases filed in state courts. As it is not currently known how much evidence is awaiting testing, it is not possible to determine the fiscal impact of this provision, but it is anticipated to be minimal.

***Department of Corrections.*** Similar to the Judicial Department, if more persons are convicted as a result of processing evidence that otherwise would not have been tested, it could increase the number of persons incarcerated in a state prison. As it is unknown how much evidence will be tested and what the results of that testing will be, it is not possible to determine the fiscal impact. This analysis assumes that the department will request any additional resources required through the annual budget process.

### **Local Government Impact**

This bill increases workload for local law enforcement agencies in two ways. First, it requires agencies to develop an inventory of evidence that has not been tested and to submit this information to the CBI. Second, it requires agencies to comply with rules to be promulgated by DPS concerning the standards and timing for submission of evidence of alleged sexual assault in the future. As the impact of this change is dependent on rules that have not yet been developed, but will take into account input from agencies, it is not possible to determine the impact to local law enforcement agencies.

### **Departmental Differences**

The Department of Public Safety requests \$25.9 million in FY 2013-14 and \$3.5 million in FY 2014-15. This request is based on an interpretation of the bill that it requires the department to begin testing backlogged evidence immediately. The request includes resources for nine additional DNA analysis equipment set-ups, 39.0 FTE, leased space, and operating costs and is premised on an assumption that 6,908 kits would be submitted (which represents an 80 percent increase from existing submissions). The fiscal note does not include these costs because, after reading the bill's plain language and following discussions with the department and the bill's sponsor, it assumes that the amount of backlogged evidence is unknown and any increase in funding is to be requested following submission of evidence inventories by local law enforcement agencies, included in the department's plan to address the backlog. In addition, because the bill grants the department rule-making authority, this analysis assumes the department can structure the rules in such a way that it can control the flow of additional work.

### **Departments Contacted**

Corrections  
Judicial  
Municipalities

Counties  
Law  
Public Safety

District Attorneys  
Local Affairs