

Colorado Legislative Council Staff Fiscal Note

**STATE and LOCAL
REVISED FISCAL IMPACT**

(replaces fiscal note dated January 31, 2013)

Drafting Number: LLS 13-0289

Date: April 5, 2013

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

Bill Status: House Appropriations

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

Fiscal Impact Summary	FY 2013-2014	FY 2014-2015
State Revenue		
State Expenditures		
General Fund	\$13,934,124	\$5,202,806
FTE Position Change	9.0 FTE	9.8 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2013-2014: See State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

As amended by the House Judiciary Committee, this bill sets forth new requirements concerning the collection and treatment of forensic medical evidence (evidence) of alleged sexual assault. First, the bill requires the Department of Public Safety (DPS) to convene a group of stakeholders to develop rules on the standards and timing for submitting, analyzing, and comparing such evidence going forward. Rules are also to address who may give consent to release evidence, when it is required, and how it may be withdrawn. The rules must be in place within six months of the bill's effective date. Within 90 days of promulgation, medical facility personnel and law enforcement agencies must be in compliance with the rules.

Backlog. The bill also lays out a plan to eliminate a backlog for testing evidence of alleged sexual assault. Within 90 days of the bill's effective date, law enforcement agencies must submit an inventory of untested evidence. Other existing evidence, subject to available space, is also to be submitted within 90 days. Finally, the CBI is also required to provide a report to the Governor and legislative committees, within 120 days of the bill's effective date, that proposes a plan to test backlogged evidence before June 30, 2014.

State Expenditures

Overall, this bill increases state expenditures by \$13,934,124 and 9.0 FTE in FY 2013-14 and \$5,202,806 and 9.8 FTE each year thereafter. Table 1 and the discussion that follows describe the cost components of the bill.

Table 1. Expenditures Under HB13-1020		
Cost Components	FY 2013-14	FY 2014-15
Personal Services	\$638,423	\$696,461
FTE	9.0	9.8
Operating Expenses and Capital Outlay	55,399	9,310
Legal Services	3,090	0
DNA Equipment and Maintenance	1,223,530	122,353
DNA Software	100,000	0
Laboratory Supplies	805,946	805,946
DNA Evidence Kit Processing	840,000	840,000
Private Lab - Testing of Backlog Evidence	7,539,000	0
Leased Space	2,728,736	2,728,736
TOTAL	\$13,934,124	\$5,202,806

Key assumptions. Based on a comparison between the number of evidence kits collected versus those submitted for testing among several local law enforcement agencies, the fiscal note assumes that the CBI currently tests about 30 percent of all evidence kits collected in a given year (754 of about 2,513).

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 versus which evidence may be submitted as space is available. Based on a current increase in the rate of submission of evidence kits since November 2012 and preliminary conversations between CBI and local law enforcement agencies, this analysis assumes that nearly all evidence kits collected each year will be submitted for testing following the implementation of HB13-1020. Costs are based on an estimated 1,600 additional evidence kits being processed per year, beginning in FY 2013-14. Irrespective of when the rules are officially promulgated, this analysis assumes increases in workload will begin July 1, 2013, as the rule-making process begins.

Personal services. DPS requires 8.0 FTE Criminal Investigators and 0.6 FTE each of a Criminal Investigator Supervisor, Laboratory Technician, and Administrative Assistant. Annual salary costs are \$696,461, prorated in the first year to account for the General Fund paydate shift. Operating costs are \$9,310 per year. One-time capital outlay costs of \$46,089 are also included in the first year.

DNA equipment and evidence kit processing. Two "DNA Set ups" are required to process the annual increase in evidence kit submissions. This includes one-time costs for equipment and software of \$1,323,530. Beginning in the second year, maintenance costs are assumed to equal 10 percent of the purchase price. Each year, laboratory costs are assumed to be \$805,946. Evidence kit processing is based on an assumed cost of \$525 per kit. To house the new equipment and staff, leased space is also required, the annual cost for which is calculated as \$538 per square foot.

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 in legal services.

Backlog evidence. The exact number of backlog evidence kits is not expected to be available until August or September 2013, when local law enforcement agencies are required to submit an inventory of backlog evidence. Because this timing falls outside of the legislative session and the bill requires testing of backlog evidence to be completed by June 30, 2014, for the purposes of estimating costs, this analysis assumes that backlog is equivalent to two years of evidence kit collections, or 5,026 evidence kits. Due to the costs involved, as well as federal requirements concerning how DNA profile results may be uploaded into the Combined DNA Index System (CODIS), it is assumed that local governments will not choose to conduct private testing. However, due to the volume of evidence kits and the testing deadline, CBI will be required to contract with a private lab to analyze the kits at a cost of \$1,500 each.

Judicial Branch. 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 known how many or the type of case filings that will occur, it is not possible to determine the fiscal impact. This analysis assumes the Judicial Branch will request additional appropriations through the annual budget process as needed.

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.

Expenditures Not Included

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 summarized in Table 2.

Table 2. Expenditures Not Included Under HB13-1020*		
Cost Components	FY 2013-14	FY 2014-15
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$66,101	\$66,101
Supplemental Employee Retirement Payments	42,749	48,365
TOTAL	\$108,850	\$114,466

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

Local Government Impact

Overall, this bill increases workload and may increase costs for local governments. The 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 participate in the development of and 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. In addition, costs may increase if a local government chooses to develop a plan to test backlog evidence within its possession. The fiscal note assumes that the costs of doing so are prohibitive and that local governments will instead submit backlog evidence to the CBI.

State Appropriations

For FY 2013-14, the Department of Public Safety requires an appropriation of \$13,934,124 General Fund and 9.0 FTE.

Departments Contacted

Corrections	Counties	District Attorneys
Human Services	Judicial	Law
Local Affairs	Municipalities	Public Safety