

STATE and LOCAL FISCAL IMPACT

Drafting Number: LLS 15-0175
Prime Sponsor(s): Rep. Pabon; Lawrence
 Sen. Cooke; Johnston

Date: April 13, 2015
Bill Status: House Judiciary
Fiscal Analyst: Kerry White (303-866-3469)

BILL TOPIC: DNA COLLECTION MISDEMEANOR CONVICTIONS

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	<u>\$279,337</u>	<u>\$468,357</u>
Cash Funds	\$279,337	\$468,357
State Expenditures	<u>\$458,097</u>	<u>\$460,273</u>
General Fund	145,744	0
Cash Funds	279,337	424,238
Centrally Appropriated Costs**	33,016	36,035
TABOR Set-Aside	\$279,337	\$468,357
FTE Position Change	2.6 FTE	2.8 FTE
Appropriation Required: \$425,081 - Multiple agencies (FY 2015-16).		

* This summary shows changes from current law under the bill for each fiscal year.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

This bill expands the type of misdemeanor convictions, sentenced after July 1, 2015, that require the defendant to provide a sample of his or her DNA, to include:

- third degree assault;
- menacing;
- reckless endangerment;
- theft;
- criminal mischief;
- child abuse;
- violation of a protection order; and
- harassment.

Background

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 (DJS) 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 House Bill 15-1312. In the past year, there were 11,366 misdemeanor convictions that met the criteria of the bill. This number includes DJS sentences that were revoked. It excludes misdemeanor convictions that accompanied a felony or DJS sentences that did not result in a revocation.

State Revenue

This bill will increase state cash fund revenue by \$279,337 in FY 2015-16 and by \$468,357 in FY 2016-17. 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 assumed to be 9,093 in FY 2015-16 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 HB15-1312					
Type of Fee	Current Fee	Number Affected	Number Paying Fee*	Base Revenue**	Total Collected***
Offender Identification Fee FY 2015-16	\$128	9,093	7,274	\$931,123	\$279,337
FY 2015-16 TOTAL					\$279,337
Offender Identification Fee FY 2016-17	\$128	9,184	7,347	\$940,442	\$282,132
Y1 revenue received				\$931,123	186,225
FY 2016-17 TOTAL					\$468,357

* 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 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 \$458,097 and 2.6 FTE in FY 2015-16 and by \$460,273 and 2.8 FTE in FY 2016-17. Table 2 and the discussion that follows describe the costs of the bill.

Table 2. Expenditures Under HB15-1312		
Cost Components	FY 2015-16	FY 2016-17
Judicial Department	<u>\$136,006</u>	<u>\$138,652</u>
Personal Services	78,804	85,968
FTE	1.2 FTE	1.3 FTE
Operating Expenses and Capital Outlay Costs	7,349	1,235
DNA Swab Testing Kits	33,285	33,618
Centrally Appropriated Costs*	16,568	17,831
CBI	<u>\$322,091</u>	<u>\$321,621</u>
Personal Services	67,309	72,116
FTE	1.4 FTE	1.5 FTE
Operating Expenses and Capital Outlay Costs	10,736	1,425
DNA Sample Processing	227,598	229,876
Centrally Appropriated Costs*	16,448	18,204
TOTAL	<u>\$458,097</u>	<u>\$460,273</u>

* 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 6,292 samples will be collected in FY 2015-16 and 6,355 in FY 2016-17. 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 \$5.29 per kit. Staff increases of 1.3 FTE per year assume 0.9 FTE probation officer, 0.2 FTE probation supervisor, and 0.2 FTE administrative support. One-time capital outlay costs and ongoing annual operating costs are included. Personal services costs are prorated in the first year to account for the General Fund pay date shift.

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 9,093 samples will be processed in FY 2015-16 and 9,184 will be processed in FY 2016-17. Total caseload will increase by 1 percent per year thereafter. DNA processing costs \$25.03 per sample. Each technician can process 6,226 samples per year, resulting in an increase of 1.4 FTE in FY 2015-16 and 1.5 FTE in FY 2016-17. Personal services in the first year are prorated for the General Fund pay date shift.

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 HB15-1312*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$21,691	\$22,507
Supplemental Employee Retirement Payments	11,325	13,528
TOTAL	\$33,016	\$36,035

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

Local Government Impact

Costs for county governments will increase by at least \$54,219 in FY 2015-16 and by at least \$57,949 in FY 2016-17. These costs are based on the assumption that county sheriffs will be required to conduct DNA swab testing for certain misdemeanor offenders sentenced to county jails. It is assumed that 2,801 offenders will be tested by counties in FY 2015-16 and 2,829 will be tested in FY 2016-17. Caseload will continue to grow at a rate of 1 percent per year thereafter. Material costs are assumed to be \$5.29 per DNA swab test kit. Staff costs for DNA collection, which are not available as of this writing, are anticipated to vary by jurisdiction. However, the fiscal note assumes half of the salary cost identified for the Judicial Department represents the minimum salary cost for counties. For this reason, the fiscal note assumes that total salary costs statewide will be at least \$39,402 in FY 2015-16 and \$42,984 in FY 2016-17.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to offenders sentenced for applicable misdemeanors on or after July 1, 2015.

State Appropriations

For FY 2015-16, the bill requires the following appropriations:

- \$119,438 from the Offender Identification Fund and an allocation of 1.2 FTE to the Probation Division in the Judicial Department; and
- \$305,643, including \$145,744 General Fund and \$159,899 from the Offender Identification Fund and an allocation of 1.4 FTE to the Colorado Bureau of Investigation in the Department of Public Safety.

State and Local Government Contacts

Corrections
Municipalities

Counties
Public Safety

District Attorneys
Sheriffs

Judicial