



Colorado *Legislative Council Staff*
**STATE and LOCAL
 FISCAL IMPACT**

Drafting Number: LLS 06-0757
Prime Sponsor(s): Rep. Stengel

Date: March 6, 2006
Bill Status: House Judiciary
Fiscal Analyst: Todd Herreid (303-866-2633)

TITLE: CONCERNING IDENTITY TESTING OF OFFENDERS.

Fiscal Impact Summary	FY 2006/07	FY 2007/08
State Revenues		
Cash Funds-Offender Identification Fund	up to \$485,000	up to \$168,225
Cash Funds Exempt-Brain Fingerprinting Pilot Program Fund	Potential increase	Potential increase
State Expenditures		
General Fund*	\$1,601,847	\$566,185
Cash Funds - Offender Identification Fund	285,410	96,290
Cash Funds Exempt-Brain Fingerprinting Pilot Program Fund	Potential increase	Potential increase
FTE Position Change	7.3 FTE	3.3 FTE
Effective Date: 90 days after final adjournment of the General Assembly (May 11, 2006), unless a referendum petition is filed.		
Appropriation Summary for FY 2006/07:		
Judicial Branch:	\$259,885 Cash Funds and \$299,495 General Fund and 6.2 FTE	
Department of Corrections:	\$19,870 Cash Funds and \$10,282 General Fund	
Department of Public Safety:	\$1,287,590 General Fund and 1.0 FTE	
Department of Human Services:	\$5,655 Cash Funds and \$4,480 General Fund and 0.1 FTE	
Local Government Impact: Potential increase in county expenditures for DNA testing.		

* *Of the total amount in FY 2006-07, \$1,250,000 represents the costs of processing and analyzing DNA samples. The bill requires the Colorado Bureau of Investigation (CBI) to establish a schedule to test as many samples as possible within existing appropriations, and it requires the Joint Budget Committee to annually review appropriations for DNA testing to determine whether an increased appropriation is necessary.*

Summary of Legislation

Under current law, all felons sentenced to the Department of Corrections (DOC) on or after March 31, 2002, are required to submit to DNA testing. Offenders are required to pay for the test, with payments deposited into the Offender Identification Fund. Moreover, certain high risk offenders sentenced to probation are required to submit to and pay for DNA testing.

This bill expands DNA testing requirements to include all convicted felons who are in the custody of DOC or are on parole or probation. The bill also requires a juvenile to submit to DNA testing if the offense committed would constitute a felony if the offense had been committed by an adult. This applies to juveniles who are either committed to the Division of Youth Corrections (DYC) in the Department of Human Services or placed on probation. The bill requires the Colorado Bureau of Investigation (CBI) to store and preserve the additional DNA specimens collected; but to analyze as many specimens as possible according to a schedule that is determined by existing appropriations for testing DNA samples.

The bill also establishes the Brain Fingerprinting Pilot Program within the Department of Corrections. The department is authorized to accept gifts, grants, and donations for the purpose of conducting electronic brain wave response tests at the request of incarcerated offenders. Such tests may show that the inmate is innocent of the offense.

State Revenues

Under current law, offenders that must submit a DNA sample are required to pay for the costs of the test. Offenders pay a private party \$15 to \$25 to draw a blood sample that is sent to the CBI for analysis. The court attempts to also collect a \$128 fee to cover the costs of processing and analyzing the DNA sample. However, the latter fee is only collected from a small percentage of offenders. The fiscal note assumes that DOC, DYC, and the Judicial Branch will collect an initial \$5 fee from offenders to collect DNA buccal samples. An estimated \$285,410 will therefore be deposited into the Offender Identification Fund in FY 2006-07 and \$96,290 in FY 2007-08. In addition, the note assumes that up to 3 percent of offenders may pay the full \$128 fee, resulting in up to \$199,590 in FY 2006-07 and \$71,935 in each subsequent year. The Offender Identification Fund will therefore receive up to \$485,000 in FY 2006-07 and \$168,225 in subsequent years.

State Expenditures

The bill is expected to cost a total of **\$1.9 million** in FY 2006-07 and **\$662,000** each year thereafter. The General Fund will incur new expenditures of **\$1.6 million** in FY 2006-07 and **\$566,000** each year thereafter. The Offender Identification Fund will incur new expenditures of **\$285,000** in FY 2006-07 and **\$96,000** in each subsequent year.

The bill requires DNA testing for all felons in custody or on probation or parole. Since only some felons are currently required to submit to a DNA test, the bill will generate additional costs for the DOC, the Judicial Branch, and the DHS. Moreover, the bill requires the CBI to store and analyze these DNA samples, which will create additional costs for the CBI. The fiscal note makes the following assumptions:

- buccal cells will be the biological substance used for the DNA tests as opposed to blood samples or some other substance;
- DNA test kits cost \$5.00 per sample; and
- the CBI will be responsible for the costs of mailing samples.

Department of Corrections. The bill will create one-time expenditures for the department of \$30,154 in FY 2006-07. Although felons incarcerated since March 2002 are required to submit to DNA testing, this bill requires all felons to submit to testing. This will generate a one-time impact for the department, as 3,974 inmates will need to be tested. The cost is projected at:

- \$19,870 for the test kits (\$5.00 per kit);
- \$2,196 for travel expenses; and
- \$8,088 for contract expenses to administer the test.

The bill could also increase prison admissions if DNA tests generate new convictions for previously unsolved crimes. For instance, the testing of all felons on probation could produce new convictions and sentences to incarceration. The fiscal note has not estimated the increase in admissions that might result from the bill.

Judicial Branch. The bill will create one-time and on-going expenditures for the branch, estimated at \$559,380 in FY 2006-07 and \$197,855 each year thereafter. The branch will have to collect an estimated 33,244 DNA samples for people on probation as of July 1, 2006, excluding those already required to submit a DNA sample for testing. In addition, the branch will have to collect DNA samples for an estimated 18,733 new offenders sentenced to probation during FY 2006-07. The cost of the DNA test kits is therefore \$259,885 in FY 2006-07 (\$5.00 x 51,977) and \$93,665 each year thereafter (\$5.00 x 18,733). The time to administer the test is expected to require 15 minutes per test, which translates into just under 13,000 hours and 6.2 FTE in FY 2006-07. In subsequent years, this amounts to about 4,680 hours and 2.3 FTE. Consequently, personal services expenses are estimated at \$299,495 in FY 2006-07 and \$104,492 each year thereafter.

Department of Human Services. The bill requires juveniles in the DYC to submit to a DNA test if the offense committed would have been considered a felony if it was committed by an adult. An estimated 1,131 youth in DYC are anticipated to meet this criterion. Moreover, 525 new commitments each year will require testing. The one-time costs are estimated at \$10,134 for FY 2006-07 and 0.1 FTE, with on-going costs estimated at \$2,625 each year.

Colorado Bureau of Investigation. The CBI is required to store and analyze the additional DNA samples received as a result of this bill. The bill also requires the CBI to establish a schedule for the chemical testing of DNA samples within existing appropriations, which includes the possibility that a large number of samples may be untested for a period of time. However, the CBI is required to store the samples until they can be tested.

The fiscal note estimates that the CBI will receive one-time requests to process about 38,000 samples from DOC, DHS, and the Judicial Branch in FY 2006-07. In addition, the CBI is projected to receive an estimated 18,733 new samples each fiscal year. The cost to **mail and store** these samples is estimated at \$37,522 in FY 2006-07 and \$16,961 in each following year. For the CBI to **process** these samples, the estimated cost is \$1,250,068 in FY 2006-07 and \$445,032 in each year thereafter. Processing costs are principally comprised of two elements:

- DNA amplification kits, which cost \$3,025 per kit to process 172 DNA samples; and
- DNA extraction reagent costs, which run \$2.7327 per sample.

The CBI will also require 1.0 FTE Technician IV to process the additional samples. Table 1 shows the total estimated costs of the bill on the CBI.

Although the bill requires the CBI to establish a schedule for DNA testing to test as many samples as possible within existing appropriations, the bill also significantly expands the population of persons required to submit to DNA testing. Therefore, the fiscal note assumes the need for General Fund support to meet the bill's requirements.

Table 1. Estimated Costs of HB06-1292 on the CBI		
	FY 2006-07	FY 2007-08
Mailing and Storage	\$37,522	\$16,961
DNA Amplification/Reagent	1,170,570	391,322
Personal Services	42,360	42,360
Operating/Leased Equipment	11,350	11,350
Capital Outlay	25,788	0
TOTAL	\$1,287,590	\$461,993

Other State Impacts

Referendum C provided that the calculation of future caps on retained revenue after FY 2009-10 will be based on the highest amount of revenue attained during the previous five years. Passage of this bill will increase the highest amount of revenue during the five-year period.

Local Government Impact

To the degree that counties have to pick up the costs of collecting DNA samples from indigent felons in county jails, local governments will see an increase in expenditures. The fiscal note has not estimated the number of felons in county facilities or the potential increase in county jail expenses.

State Appropriations

For FY 2006-07, the following appropriations will be needed:

Department of Corrections: \$19,870 cash funds from the Offender Identification Fund and \$10,282 General Fund;

Judicial Branch: \$259,885 cash funds from the Offender Identification Fund and \$299,495 General Fund and 6.2 FTE;

Department of Human Services: \$5,655 cash funds from the Offender Identification Fund and \$4,480 General Fund and 0.1 FTE; and

Department of Public Safety, CBI: \$1,287,590 General Fund and 1.0 FTE.

Departments Contacted

Judicial

Corrections

Public Safety

Human Services