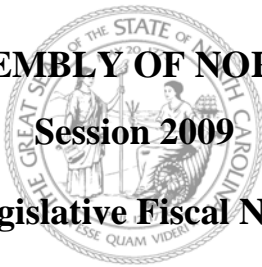


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 1403 (First Edition)

SHORT TITLE: Collect DNA Sample on Arrest.

SPONSOR(S): Representatives Neumann, Tillis, Burris-Floyd, and McCormick

	FISCAL IMPACT				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
EXPENDITURES					
GENERAL FUND					
Department of Justice (DOJ) - SBI	\$3,580,000	\$3,601,000	\$3,622,630	\$3,644,909	\$3,667,856
DOJ Positions (cumulative):	14	14	14	14	14
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Justice – State Bureau of Investigation; Local law enforcement agencies					
EFFECTIVE DATE: December 1, 2009					

BILL SUMMARY:

This bill enacts the following:

- Adds new G.S. 15A-502A providing that, unless a DNA sample has previously been obtained by lawful process and stored in the state DNA database and has not been expunged pursuant to G.S. 15A-148, any person who is arrested on or after December 1, 2009 for committing a felony must provide his or her DNA sample for DNA analysis and testing. The DNA sample must be taken by a qualified member of the health profession. If the arrestee objects to having a DNA blood sample taken, a sample of saliva, hair, body tissues, or other biological material that is appropriate for DNA testing may be taken unless otherwise provided by court order. Unreasonable or unnecessary force may not be used to obtain a DNA sample. Results of the DNA testing and the DNA sample itself will be stored and maintained in the state DNA databank. Makes additional technical and conforming amendments to other statutes regarding criminal procedure.

- Adds new G.S. 15A-270.15 requiring the State Bureau of Investigation to establish and administer a missing persons DNA identification system as part of the state DNA database and the state DNA databank. The system will consist of DNA indexes of unidentified persons, unidentified human remains, and relatives of, or known reference samples from, missing persons. Creates the DNA Identification System Fund in the Department of Justice to assist with the cost of maintaining the DNA databank. Requires that a person convicted of a felony, of sexual battery, of stalking, or of assault on a handicapped person will be assessed a fee of \$100, which will be deposited in this fund.
- Effective December 1, 2009 and applies to arrests on or after that date.

ASSUMPTIONS AND METHODOLOGY:

Department of Justice – State Bureau of Investigation (SBI)

The Department of Justice (DOJ) reported to Fiscal Research that they expect the proposed bill to require the purchase and distribution of DNA collection kits to all law enforcement agencies throughout North Carolina, so that a sample can be collected from all persons arrested in connection with a felony. Each kit must have its personal information entered into a database and each sample must be genetically analyzed so that a suitable DNA profile can be entered into the database. The analysis of each sample must be technically reviewed prior to entry into the DNA database. In the event that a person can legally remove their DNA profile from the database, the SBI will be responsible for removing the information. The SBI will also be responsible for the long-term storage of the database samples. DOJ is only able to estimate the initial costs associated with the adoption of this bill. All costs reflect the potential fiscal costs to be incurred by the SBI and do not take into account the costs that numerous law enforcement agencies in North Carolina would also experience in order to comply with this law.

DOJ states that this proposed bill will require the purchase of approximately 155,000 collection kits, at an average cost of \$6 per kit, for a total expense of \$930,000. These kits would need to be distributed to law enforcement agencies across the state. These samples would be outsourced to a third-party lab at a cost of \$26 per sample, for a total expense of \$4,030,000. DOJ reports that it would require an increase in staffing to perform the following related tasks:

- To order, distribute, and receive the collection kits – 2 FTEs
- To oversee the expungement process – 3 FTEs
- To enter the personal data into the system – 3 FTEs
- To verify the fingerprints – 4 FTEs
- To analyze, review, and upload genetic information into the database – 10 FTEs

Although the samples would be outsourced, DOJ reports that the additional analysts listed above will be needed in order to hand process every sample to get them to the point of outsource, and to accession the sample (which includes the actual data entry, verification of qualifying offense, preparation of the bloodstain, cutting of the sample, and preparation of the sample for shipment to be processed by the vendor lab, receipt of data from vendor lab, 100% review of every profile received from the vendor lab, upload of profile into CODIS. DOJ has an approximate 60 day turnaround time from shipment of sample to vendor lab, receipt of profile and subsequent upload of profile into CODIS). Additional equipment would be need to purchased, such as extraction robots, automatic hole punchers, genetic analyzers, thermalcyclers, pipettes, amp hoods, and centrifuges.

After reviewing the DOJ analysis for H 1403, the following adjustments have been made by the Fiscal Research Division (FRD):

1) The number of arrested persons to be tested – DOJ stated in their analysis that approximately 155,000 persons would need to be tested annually. The arrest estimate provided by DOJ (155,000) also includes a significant number of misdemeanor arrests that will need to be taken out of the estimated total. Also, the bill specifies that if the person had already provided a DNA sample that they not be required to resubmit a sample for analysis. The size of this group would also need to be estimated and deducted from the 155,000 figure. Based on conviction information gathered from the Administrative Office of the Courts (AOC) and arrest information from the DOJ, it would be more accurate to estimate that approximately 80,000 – 90,000 persons are arrested annually on felony charges and would be subject to the requirements of this bill.

2) Additional staff positions needed to implement the bill – DOJ estimates that they will need 22 additional staff positions to accommodate the additional work associated with this bill. However, this bill does not create a new work function for the Department; rather it expands upon work activity already being done by the Department. DOJ collects and enters approximately 20,000 DNA samples for convicted offenders into the Combined DNA Index System (CODIS) database annually. Based on prior information from DOJ about staffing needs for the convicted offender DNA program, FRD estimates that the agency will need 14 staff positions to accommodate the additional work associated with H 1403. More specifically:

Position Classification	FTE	Annual Sal & Benefits	FY 2009-10 Cost
2 Information Processing Technicians to order, distribute, and receive the collection kits	2	\$46,000	\$92,000
4 Information Processing Technicians to enter personal data into the system	4	\$46,000	\$184,000
2 Latent Evidence Examiners to verify fingerprints	2	\$53,000	\$106,000
6 Molecular Geneticists to review, and upload genetic information into the database	6	\$53,000	\$318,000
Total:	14		\$700,000

The agency's analysis included 3 FTEs to oversee the expungement process. The Department already has staff to oversee expungement of records. The amount of additional expungement work associated with this bill is not significant enough to warrant the need for 3 staff positions.

Using 90,000 as the arrest estimate the chart below shows the FRD cost estimate to implement H1403.

	FY 2009-10	FY 2010-11
90,000 Rape Kits at \$6/kit	\$540,000	\$540,000
14 Staff Positions	\$700,000	\$721,000
DNA Sample testing (\$26/sample)	\$2,340,000	\$2,340,000
Total	\$3,580,000	\$3,601,000

These costs are shown in the fiscal impact table on page one of this fiscal note with expenses related to staff positions adjusted for 3% annual inflation. The costs associated with the DNA collection kits remain flat across the projected years.

NC Sheriffs' Association

The NC Sheriffs' Association staff reported to Fiscal Research that, without being provided more details about the implementation structure of this proposed bill, it is not possible to provide a fiscal impact estimate. As the bill is currently written, it is unclear (1) which agency will be required to pay for the collection of the blood sample, (2) where the sample will be collected, and (3) how the sample will be transferred to the SBI crime lab. If local law enforcement agencies are required to incur these costs then significant fiscal impact is anticipated, however, the precise amount cannot be determined.

NC Association of Chiefs of Police

The NC Association of Chiefs of Police staff reported to Fiscal Research the following concerns regarding the implementation of this bill. The Association was not able to provide an estimate of the potential costs to local law enforcement agencies.

- Current practice is that a blood sample is collected upon conviction, usually at the jail/prison where there are health care professions readily available. There are many small law enforcement departments throughout the state with no health care personnel available on a regular basis. In addition, individuals are arrested at all times of the day and night and it is anticipated that there will be a need for additional health care personnel in order to meet the requirements of this bill.
- It is a concern that this bill will make it the "duty" of the law enforcement officer to take the blood sample, however the health care professional will be the one to actually take the sample. It is unclear what level of force may be used to take the sample.

SOURCES OF DATA: Department of Justice; NC Sheriffs' Association; NC Association of Chiefs of Police

TECHNICAL CONSIDERATIONS: None

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